

VERBATIM <sup>1</sup>RECORD OF TRIAL <sup>2</sup>

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

(Social Security Number)

PFC/E-3

(Rank)

Headquarters and

Headquarters Company,

United States Army Garrison

(Unit/Command Name)

U.S. Army

(Branch of Service)

Fort Myer, VA 22211

(Station or Ship)

By

GENERAL

COURT-MARTIAL

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

(Place or Places of Trial)

on

see below

(Date or Dates of Trial)

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<sup>1</sup> Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

<sup>2</sup> See inside back cover for instructions as to preparation and arrangement.

1 A. Page 26 of 26.

2 Q. All right, so that would be an example of what you would  
3 expect to see if the C&A board needed to capture any more facts?

4 A. Right -- on the continuation, yes.

5 CDC[MR. COOMBS]: All right. I'm retrieving from the witness  
6 Appellate Exhibit 441D [retrieving the document from the witness].

7 Q. So at least from your memory of events there was an  
8 exchange between PFC Manning and the board that apparently troubled  
9 the board, correct?

10 A. Yes, sir.

11 Q. And the statement really dealt with his intake statement on  
12 whether or not that was truthful or not and whether or not he was  
13 being truthful now when he's saying he was not intending to harm  
14 himself?

15 A. That's true, sir.

16 Q. Now did you -- were you troubled by that?

17 A. I mean -- honestly, sir, I was because -- the way I looked  
18 at it is; you're in front of the board, this is your chance to -- to  
19 kind of explain things because, to be very honest, you know, I don't  
20 know what he was going through before that.

21 Q. [Responded in the affirmative.]

22 A. So it just kind of troubled me because the statement always  
23 planning, never acting is concerning, but then when they just ask you

1 and you don't answer directly -- you know what, this statement I'm  
2 making today that I don't want to harm myself, that is a true  
3 statement, and this is why it's true. I know what you have to  
4 review, blah, blah, blah, but this is why it's true.

5 Q. And so -- because you were troubled by it, did you go to  
6 PFC Manning and say I want to ask you about this thing?

7 A. Not on the day of the board, sir. Again, I ----

8 Q. No, I mean just at any time -- did you go to him and say I  
9 want to ask you about this statement?

10 A. Yeah, I talked to him a little bit about it. And I just  
11 said ----

12 Q. What did you ask him?

13 A. I just kind of talked to him about the board. I said, hey,  
14 you need to appear on the board more and give them, you know, solid  
15 answers. I just -- I was honest with him, sir, and I told him it  
16 really made me feel uncomfortable. And, again, I kind of, you know,  
17 have ran back to, you know -- honest communication is -- is one of  
18 the things I'm looking for.

19 Q. But I was asking you -- did you actually say I want to talk  
20 to you about this statement that you made on your intake  
21 questionnaire? Did you have that question with him?

22 A. I remember discussing it one of the times we sat down  
23 because I was explaining to him what things were concerning me. So -

1 - and I listed that as one -- and I said, you know, you have to just  
2 be able to tell me, no, this is -- ma'am, I know what you read, but  
3 here's the real deal. I'm speaking to you truthfully right now. So,  
4 yes, I know at least on one occasion we talked about that. And,  
5 again ----

6 Q. And I want to go into that conversation then.

7 A. Yeah.

8 Q. So how did you bring that conversation up to him? What did  
9 you say to him, and what did PFC Manning say back to you?

10 A. I mean, from what I recall, sir, it was one of those  
11 conversations when I had, hey, look, you know -- I kind of reminded  
12 him -- hey, when I got here I told you I'm big on communication even  
13 if you're reporting to a staff member, that's fine. I reminded him,  
14 you know, hey, all the privileges you had extended; I'm going along  
15 with it still -- things like that. And I said, hey, look, as far as  
16 this board, you know, I'm -- I told him -- I said, I don't know  
17 what's going on, I said, but I noticed you're not talking as much.  
18 And I -- I just kind of told him -- I said, you know, communication  
19 is important. And -- I can't remember -- it was something about --  
20 talking about changing the POI. And I said I don't have problems  
21 doing that, I said, but, you know, when you make comments like you  
22 made to the one on the board it doesn't make me feel comfortable.  
23 And I told him -- questions like -- you can't answer it like that. I



1 mean, I'm not telling you what to say, but -- I just was honest with  
2 him. And I told him that it did not make me feel comfortable. And I  
3 listed the other factors as well, sir. So I couldn't recall if it  
4 was -- 'cause, again -- we sat down a few times with just me and him  
5 and no guards, so I couldn't tell you if it was -- you know, we went  
6 into that detail on the first conversation or the second one, but I  
7 did cover that, sir.

8 Q. All right. So if I'm understanding your answer correctly,  
9 the extent at which you covered this issue was just to tell him, hey,  
10 the statements you made at the board; I was uncomfortable with that,  
11 and you can answer that way?

12 A. Well, it wasn't just that. Again, sir, I listed all the  
13 other things that concerned me, and I just ----

14 Q. Well, I know that. I'm just talking about this -- what I'm  
15 trying to get at is did you ask -- ever point blank say, you made  
16 this statement; always planning, never acting. I want to ask you  
17 about that. What did you mean by that? Why did you say that? I  
18 want you to make me feel comfortable right now with why you said  
19 that. Did you do that with PFC Manning?

20 A. I recall, sir, I just kind of said, hey, what -- what are  
21 you -- I mean -- what's that supposed to mean, you know. And he --  
22 to be honest with you, sir, I kind of recall -- I think he kind of --  
23 not laugh in a disrespectful way or anything, it was just kind of --

1 it was almost like, oh, I'm having to explain this again maybe -- you  
2 know what I mean. So to be honest with you, I really tried not to  
3 like lecture him or, hey, you're wrong for this -- never that -- it's  
4 just -- again, when I talked about it, it was kind of bringing those  
5 things up -- letting him know I didn't feel comfortable. I mean,  
6 what do you want me -- how do you want me to interpret that, you  
7 know.

8 Q. And that's what I want to get at 'cause you were talking  
9 that it was important for communication. So it seems to be the best  
10 way to break down the barriers of communication is to ask a point  
11 blank question. So did you point blank say tell me why you made this  
12 statement?

13 A. No. But I asked him -- I said what does that statement  
14 mean?

15 Q. Did you point blank say to him, look, you made -- this  
16 statement could have been false; you said that to the board. Why'd  
17 you say that to the board? Tell me why you said that?

18 A. No. I mentioned the comment he made, and I said, you know,  
19 how are the board members supposed to take it? I mean, what are you  
20 -- when you say that what do you want me to know? Like -- I mean,  
21 it's kind of hard to describe, but if, "You make that statement,"  
22 that's what I said, if you made that statement to the board members,  
23 I said, obviously it doesn't make me comfortable either, but what

1 exactly did you mean? Did you understand them? Because I believe  
2 one of the board members also said, wait a minute. Did you  
3 understand what we just asked you? And he said, yes. And I brought  
4 that up. I said -- I mean, what -- what am I -- how am I supposed to  
5 interpret it or what are we supposed to make out of it?

6 Q. And what did PFC Manning say back to you when you said  
7 that?

8 A. Something along the lines of -- you know, he just kind of  
9 reiterated what he told them -- that his thing is, hey, I just want  
10 to be off of POI -- well, okay, the statement could have false -- but  
11 honestly, sir, he never said, well, ma'am, I said this because I was  
12 just being sarcastic or ----

13 Q. And I would imagine that you would want to know that. So  
14 that's why I'm trying to get at -- did you then -- when you brought  
15 this up apparently with him, and he said I just want to be off of  
16 POI, did you say, well, that's not responsive to my question. My  
17 question is why did you say this to the board?

18 A. I mean -- when he said that I said -- I think I might have  
19 said something along the lines of, hey, I understand that, but you  
20 need to make me feel comfortable. You need to explain things to me  
21 so that I know because I don't know on any given day what could be  
22 troubling -- maybe he got bad news from home. I don't know that. So  
23 my thing to him was, hey, look when you -- you know, when you make

1 these comments I have to know what -- what exactly you mean or how  
2 you meant it or whatever the case is. But to be removed from POI --  
3 comments like that it's -- you know, if they continue it's not going  
4 to make me feel any better.

5 Q. And I understand that. So then when you say that to him,  
6 you know, what does PFC Manning say back to you then?

7 A. He kind of just -- I think he kind of just -- well, okay,  
8 ma'am, kind of thing. Because, again, you know, I didn't want to  
9 lecture him or make him feel like he had -- he was forced to stand  
10 there and talk to him. So I would -- made that comment -- he would  
11 just say, okay, ma'am. And that was it pretty much.

12 Q. So you -- when he said "Okay, ma'am" you didn't say, well,  
13 no, I'm not okay. You're going -- you need to tell me why you made  
14 this statement. I want to understand. You didn't do that?

15 A. No, sir, 'cause, again, I did it once before and I just  
16 didn't want to badger him or continually, you know, hound him. I  
17 mean, I just told him, hey, look, I need for us to communicate. You  
18 trust me -- just like you trust me to make sure you're safeguarded or  
19 go to -- I need to be able to trust you when we talk or when we build  
20 rapport and have honest open communication so that I can make  
21 adjustments.

22 Q. If you would turn to Page 9 of Enclosure 26, I believe ----  
23 or 9 of 26 of Enclosure 32. That's the second time ----

1 A. [Looking the document] 9 of -- can you say that again ----  
2 Q. Sure it's ----  
3 A. ---- 'cause this is saying 9 of 26.  
4 Q. ---- yeah, 9 of 26 to Enclosure 32, which is -- this is the  
5 enclosure ----  
6 A. Okay, gotcha [looking at the document].  
7 Q. This is the second time that PFC Manning appeared before  
8 the board, correct?  
9 A. [Looking at the document] Now I see this page -- it was  
10 copied, but somebody wrote in a 4, so -- I mean, it'll be hard for me  
11 to tell 'cause it couldn't see if it was 9 or whatever, but I believe  
12 ----  
13 Q. If you look to the bottom of it?  
14 A. [Looking at the document] Oh, yep, you're right. That  
15 would be the second one.  
16 Q. All right, so when he appeared in front of the board this  
17 time, PFC Manning asked to be taken off of MAX and POI as well,  
18 correct?  
19 A. [Looking at the document] I would guess that he did.  
20 That's why he would appear, sir.  
21 Q. And this was under your command at this point, correct?  
22 A. That's right, sir.  
23 Q. And the board chose to retain him on MAX and POI?

1           A.    Well, they recommended that to me, yes.

2           Q.    And for this appearance were you informed that PFC Manning  
3 showed up with documentation about how he had been over the past six  
4 months?

5           A.    He showed up with documentation? I don't recall that, sir.

6           Q.    Documentation that he received from his defense counsel  
7 documenting his observation and evaluation reports by Gunny Sergeant  
8 Blenis. Did anyone tell you about that?

9           A.    [Looking through the documents] Honestly, sir, I don't  
10 recall. But, again, when you have so many of these boards, you know,  
11 and we're not reviewing him, we're reviewing other people. I mean --  
12 so to be honest, sir, I don't recall.

13          Q.    And in this board did anyone ever inform you that he got up  
14 and he went through every one of his observation and evaluation  
15 reports saying that he was polite, respectful, following the rules,  
16 courteous, and basically said to the board I don't understand why I'm  
17 on POI and MAX?

18          A.    I remember them saying that, sir, but to be honest, I don't  
19 recall them bringing document -- him bringing documents in there.  
20 But I know, you know, he did -- obviously he don't agree with being  
21 on POI -- and he was correct. I mean, he wasn't -- he didn't receive  
22 disciplinary reports or anything like that. So I am aware that he  
23 talked to them and said, you know, he's not a troublemaker or

1 anything; why is he on POI? But, again, I just don't remember them  
2 saying, well, he brought all these documents 'cause, again, all these  
3 documents would be in his book anyways.

4 Q. All right. And so after this he appears before the board a  
5 third time, correct?

6 A. I'm pretty sure he did, sir.

7 Q. If you'd turn to Page 12 of 26.

8 [The witness did as directed.]

9 Q. This is when PFC Manning appeared before the board on 25  
10 February 2011.

11 A. [Looking at the document] Okay.

12 Q. Do you see where he -- where it shows that he came to the  
13 board?

14 A. Yeah, it says that he chose to -- yes, sir, he initialed  
15 that.

16 Q. And PFC Manning again came to the board and asked I want to  
17 get off of POI and MAX?

18 A. Say that again, sir?

19 Q. PFC Manning came to the board again and said I want to get  
20 off of POI and MAX custody?

21 A. Okay, sir.

22 Q. Is that correct?

23 A. I mean -- I would imagine. Let me a quick second to read

1 the notes here. It's been a long time.

2 Q. Sure. Go ahead.

3 [The witness read through the document.]

4 A. Okay, according to the notes it said he requested to appear  
5 but had no new issues to bring to the board's attention that were not  
6 already voiced in his previous appearances before the board.

7 Q. Exactly. So those -- those remarks show that he went to  
8 the board but apparently he had nothing new to offer the board that  
9 they hadn't already heard the previous time he came correct?

10 A. That's right, sir. But one other thing as well is a  
11 prisoner could go in front of that board and say I don't want to be  
12 on interior work detail. Okay, well ask them why? You know, and  
13 this is just a general example -- he might just say, well, I just  
14 don't want to be on it. That's not good enough. Now if you say I  
15 don't want to be on interior work detail because somebody -- this  
16 other detainee that's on that work detail -- we're testifying against  
17 each other and I'm worried or something like that, then -- you see  
18 what I'm saying? So if you give them -- you say, hey, I don't want  
19 to be MAX/POI and you say -- you know, this is why I think you should  
20 take me off. Okay, yes, I'm a good detainee, but, again, the work  
21 and training reports, him being good really didn't -- like I said no  
22 disciplinary reports or anything, but the main issue is, again, just  
23 coming out directly and saying I do not want to harm myself. This is



1 why -- I know what you guys looked at. Here's what has changed.

2 Q. Now -- and I want to follow-up on that. So if PFC Manning  
3 appears before the board and -- on 4 February, and lays out all the  
4 facts that he says why I should not be on. And then he comes again  
5 now for the 25 February and he lays out the facts again -- or he  
6 tries to and they say to him, you're not telling us anything we  
7 haven't already heard.

8 A. Okay. But, again, sir ----

9 Q. Could you -- could you see then how PFC Manning might think  
10 that the board doesn't want to hear anything from him?

11 A. I could see that, but you've got to remember, sir, again,  
12 when you talk about I'm a good detainee; check --

13 Q. Right.

14 A. -- you know, I haven't had any issues, even outside the  
15 facility; check. My work and training reports are average or above  
16 average; good. However, those are easy things to look at. The tough  
17 thing is where are you at in terms of wanting to harm yourself.  
18 Because remember, sir, confinement in itself, to be very honest, is  
19 obviously they're deprived of things. They can't get up and go where  
20 they want -- that kind of thing. So, again, sir, from my  
21 interactions with the board, yes, he would come in and say I got work  
22 and training reports, blah, blah, blah, but, again, the main issue  
23 was that they really didn't a -- I don't want to kill myself. This

1 is why.

2 Q. Okay. And the people that were on this board -- again,  
3 this board here is Fuller, but for the most part it was always Gunny  
4 Sergeant Blenis as the senior board member, right?

5 A. As a programs chief, yes.

6 CDC[MR. COOMBS]: And I'm showing you now in Enclosure 22 of  
7 Appellate Exhibit 259, can you look at that and tell me what that is  
8 [handing the document to the witness].  
9 [The witness looked through the document.]

10 Q. Are those the weekly reports that were sent up?

11 A. Those are the weekly progress reports, sir, that was sent  
12 up, yes.

13 Q. And I'm sure, because you reviewed them, you would agree  
14 with me that week, after week, after week, PFC Manning was telling  
15 Gunny Sergeant Blenis I'm not suicidal, I don't want to harm myself.  
16 He's telling his counselor that.

17 A. Sir, I'm not in there when they talk. And his counselor --  
18 you know, I can't say that every time they sat down that they  
19 discussed that. I mean, when I looked at the notes I would see  
20 things like he'll discuss maybe basketball or ----

21 Q. Take a look at the counselor's notes; every one of them  
22 documents the fact that PFC Manning told him he was not suicidal and  
23 hadn't been suicidal since he arrived at Quantico?

1           A.   Well, I would obviously have to go through all of these,

2   sir.  I mean I can't ----

3           Q.   Well, we'll take one random one -- you open up randomly and  
4   we'll just take one.

5   [The witness looked through the documents.]

6           Q.   You have to turn to the second page.

7           A.   Okay, sir, I'll get there.  I'll get there.

8   [The witness looked through the document.]

9           Q.   Did you find it there in that counselor's note?

10          A.   [Looking through the document] Okay, I saw one.

11          Q.   Okay, you take as much time as you want.

12   [Pause while the witness looked through the document.]

13          A.   Okay, for the few that I reviewed, yes.

14          Q.   Yeah, so week after week he's telling the one person, in  
15   addition to yourself that you said he should be talking to, he's not  
16   suicidal and he doesn't want to harm himself, correct?

17          A.   Yes, sir.

18          Q.   So -- I know now you said he was good behavior; check, no  
19   adverse spot evaluations; check, wouldn't you then go to -- and is he  
20   telling us he's not suicidal and doesn't want to harm himself; check?

21          A.   Yes he's saying that, sir, but, again, when he's not  
22   discussing, hey, I made a comment that would cause you all concern,  
23   not once, but twice.  And I mean he's not again addressing that,

1 sure, you ask the prisoner are you suicidal or homicidal at this  
2 time; no. But, again, he's not addressing, you know, why did you  
3 make those comments? And, again, sir, somebody who really wants to  
4 commit suicide; they're not going to tell us that.

5 CDC[MR. COOMBS]: And I'm going to just show the witness the  
6 transcript from Appellate Exhibit 435 Hotel [handing the document to  
7 the witness].

8 Q. So, Chief, I know you've got a copy in front of you -- this  
9 is Appellate Exhibit 435 Hotel. This is a transcript of PFC Manning  
10 on 18 January in a conversation with his counselor. And he talks  
11 about -- and you can see it in front of him where he's saying,  
12 [reading from the document] I mean, 'cause I'm getting -- every day  
13 that passes by I'm getting increasingly frustrated. I'm not going to  
14 lie 'cause I'm trying to do everything that I can not to be  
15 concerned, therefore, I appear as though I am causing more concern --  
16 or I -- or it seems that I'm causing more concern and everyone's  
17 looking for something to cause concern. So that's what's frustrating  
18 me; trying to work out the most politically way of -- and then Gunny  
19 Sergeant Blenis says, let's go back to today. And he talks about the  
20 anxiety attack -- and he tries to compare that with what happened in  
21 Kuwait. And PFC Manning tells him at that point that the two are not  
22 the same. He says that when he was in Kuwait he was actually -- he  
23 wasn't lucid. He wasn't aware what was going on. But here at

1 Quantico he is lucid. He is aware of what's going on. Isn't that  
2 what you were looking for, for him to say, hey, I know what you guys  
3 saw back there, but that's not what -- that's not a worry because  
4 back then I wasn't lucid, but here and now I am lucid?

5 A. Okay, sir ----

6 Q. Wouldn't that be a check for you?

7 A. And just give me a minute, sir --

8 Q. No, no, you take as much time as you want.

9 A. -- 'cause, again, I don't know where this came from and --  
10 if this is transcribed word-for-word -- but ----

11 ATC[CPT VON ELTEN]: Ma'am, this could be helpful if the defense  
12 asks if she's ever seen this before.

13 WIT: Yes, 'cause this is news to me. That's why I'm saying I  
14 need to review this Word document that's typed.

15 CDC[MR. COOMBS]: Ma'am, I don't think -- and I have no  
16 problem taking the time to look at it. It's not important that she  
17 has seen it before. The important fact is if PFC Manning's telling  
18 his counselor that what happened in Kuwait was because he wasn't  
19 lucid and now he is lucid, that directly goes to what Chief Barnes  
20 was saying.

21 MJ: Does the Government agree that that's a verbatim transcript  
22 as close as you can from what happened in the video?

23 ATC[CPT VON ELTEN]: Yes, ma'am, but the point is that the

1 witness was not present then and -- and there wasn't even a proper  
2 foundation whether she even watched the video or seen the video.

3 MJ: No, I'll let it go forward. Go ahead.

4 [Examination of the witness continued.]

5 Q. So really what I'm asking you, and you can take the time  
6 you need to look at that to answer that question, but if PFC Manning  
7 conveyed to his counselor that the stuff that you're concerned about  
8 in Kuwait was due to me not being lucid then, and now I am lucid,  
9 wouldn't that be then the explanation that you're looking for in  
10 order to feel comfortable?

11 A. Well, I mean, that just a tiny aspect, sir. But, again,  
12 other things like the behavior in the cells; that's not addressed.  
13 The issue of how he's coping with the gender issues; that was not  
14 discussed with me either. I mean, so -- as I'm looking through this,  
15 sir -- okay, he said in Kuwait I wasn't lucid; it was like a dream.  
16 And then Gunny Blenis said at that time, well, they both ultimately  
17 ended up with you having an anxiety -- anxiety attack. But, again,  
18 let me just finish going through it, sir --

19 Q. Sure.

20 A. -- 'cause, again, this is the first time I'm looking at  
21 this.

22 Q. And when you're thinking -- when you're looking through  
23 that, I've got issues with the behavior in the jail and gender

1 identity is two other things the he hadn't covered with you yet. And  
2 I'm going to ask you if there's anything else that you felt he didn't  
3 cover with you.

4 A. Okay, well let me go through this first -- and I have no  
5 problem, sir.

6 [The witness read through the document.]

7 MJ: Mr. Coombs?

8 CDC[MR. COOMBS]: Yes, ma'am.

9 A. It's a little hard to follow along because in some of the  
10 responses I'm seeing is tied to yes, Master Sergeant, but I'm not  
11 seeing anything from Master Sergeant Papakie. As you know I was not  
12 in -- there on the 18th --

13 Q. Sure.

14 A. -- but the answer to your question -- and you are correct.  
15 If he said, okay, I wasn't -- I wasn't lucid in Kuwait, I'm lucid  
16 here. But, again, this was one time he was asked about, well, you had  
17 a similar incident like this in Kuwait and it came up then. But,  
18 again, from -- from what I can see, you know, that's -- yeah, that's  
19 one thing -- okay, I was lucid then -- I wasn't lucid then, I'm lucid  
20 now. But -- and, again, sir, it was kind of hard to follow along  
21 with this because it's a lot of um, um, or things cut off.

22 Q. Right.

23 A. So. I know you can't help the video tape -- I don't know

1 the quality, but -- so to answer your question, if he said -- if that  
2 comment -- yes, that could be one thing that could be considered as  
3 well.

4 Q. And then you had indicated that in addition to the stuff in  
5 Kuwait or his intake, that there were behaviors that you were  
6 concerned about and the gender identity disorder wasn't addressed.

7 A. Say that again, sir.

8 Q. I believe you said that there are two other things you were  
9 concerned about in addition to what you saw in Kuwait. That was his  
10 behaviors over a period of time --

11 A. Right.

12 Q. -- and that the gender identity disorder was not discussed.

13 A. No, sir, that -- you know, as far as if that's the fact of  
14 him in confinement or maybe, you know, any struggles he may be  
15 facing, that could affect things. I don't know.

16 Q. Well, I just wanted. And that's why I said, you know, tell  
17 me the other things that you were concerned about. You said issues  
18 while he was there -- the behavior issues.

19 A. Yeah, decreased communication; I think we covered that.

20 Q. Okay, and we'll cover that in more detail. But I just want  
21 to make sure I have all your factors. So decreased communication ---  
22 -

23 A. Now we're talking as far as maintaining the POI, right, and



1 not the MAX -- the custody because those are two different? So

2 you're talking about maintaining the status or the custody?

3 Q. Neither. What I was talking about was you -- you were  
4 saying for communication. One of the things he could have done --  
5 got it ----

6 A. Right.

7 Q. ---- check, he's got behavior; check, he's not a problem.  
8 And then this instance now; check -- at least one time he's explained  
9 his other behavior. And you said that there were other things that  
10 were still not explained. And so I just wanted ----

11 A. Right -- beyond that ----

12 Q. ---- to ----

13 A. ---- right -- so, again, you know, the behavior -- why was  
14 there a shift for example -- and I'm not just talking about the  
15 things with his glasses frame and the acting out things, but the very  
16 clear difference in behavior when he would be in with the  
17 psychiatrist and stuff like that, and when he would be with us.

18 Q. Okay.

19 A. You know, again, we mentioned the -- the -- the not really  
20 going into detail with what did you mean on the C&A board, the intake  
21 forms; that kind of thing.

22 Q. Anything else?

23 A. Aside from the decreased communication with me, not that I

1 can think of right now, sir.

2 Q. Okay.

3 CDC[MR. COOMBS]: Ma'am, before I continue with my cross, it  
4 might be good at this point to take a lunch break.

5 MJ: Okay. And what would you like?

6 CDC[MR. COOMBS]: If we could come back at, I guess, 13 --  
7 well, 1400. Is that possible?

8 MJ: Well, government, any objection to that or do you want to  
9 go forward?

10 ATC[CPT VON ELTEN]: I mean we'd prefer to go shorter, ma'am.

11 MJ: Yeah.

12 ATC[CPT VON ELTEN]: Depending on how long it's going to take.

13 CDC[MR. COOMBS]: Anything over an hour would be good with the  
14 defense. So, even if it's an hour and 15 minutes that would be fine.

15 MJ: All right, why don't we do it at 1345.

16 ATC[CPT VON ELTEN]: Yes, ma'am.

17 MJ: Court is in recess until 1345 or 1:45. Same rules apply.

18 **[The Article 39(a) session recessed at 1230, 7 December 2012.]**

19 **[The Article 39(a) session was called to order at 1353, 7 December**  
20 **2012.]**

21 MJ: This Article 38(a) session is called to order. Let the  
22 record reflect all parties present when the court last recessed are  
23 again present in court. The witness is on the witness stand. Mr.

1 Coombs?

2 CDC[MR. COOMBS]: And, Chief Barnes, I remind you you're still  
3 under oath.

4 WIT: Yes, sir.

5 [Examination of the witness continued.]

6 Q. Now, Chief, you said over a period of time after March you  
7 started to notice a difference in PFC Manning's behavior?

8 A. I said over time. I don't recall the month. But I did say  
9 over time, yes.

10 Q. Well he went from being fairly cheery to being kind of  
11 quiet and withdrawn, is that correct?

12 A. Oh, yes, sir.

13 Q. And even though he was quiet and withdrawn, he wasn't  
14 disrespectful?

15 A. Nah. I just had to counsel him one time and that was it.

16 Q. And you were particularly concerned that PFC Manning  
17 appeared to have a different demeanor with the doctors than he did  
18 with you and the staff?

19 A. That's right, sir.

20 Q. The reason you think this is because sometimes the staff  
21 would walk by where PFC Manning was speaking with the doctors and you  
22 can see them speaking. And you could see that he was -- seemed to be  
23 talking with the doctors quite a bit?

1       A.    Yes, sir.

2       Q.    He looked like he appeared to be happy?

3       A.    From what I saw, sir, yeah.

4       Q.    And from what you saw it looked like he was very talkative  
5 with the doctors?

6       A.    That's right, sir.

7       Q.    You noticed that he was smiling at times?

8       A.    A couple of times I noticed that. But, again, I was just  
9 walking through making rounds. As a habit -- just looking into  
10 special quarters as I'm on my way to check my exterior hatch -- that  
11 kind of thing, so from glances that I saw, yes, sir.

12      Q.    Okay, and sometimes he would spend an hour to upwards to  
13 two hours with the doctors, is that correct?

14      A.    That's right, sir.

15      Q.    And then when he would be back to his cell he wasn't happy?

16      A.    Well, yes, we would notice -- they would notice a change in  
17 his demeanor, sir, yes. So I wouldn't necessarily say he wasn't  
18 happy, but, again, what they saw as far as, I guess, the talking back  
19 and forth, eye contact; yeah, that wasn't the case, sir.

20      Q.    Yeah, he wasn't talkative when he went back to his cell?

21      A.    No, sir, not that I was told.

22      Q.    And you didn't notice or nor were you told that he was  
23 smiling a lot when he was back in his cell?

1           A.    No, sir.

2           Q.    And I think what you said was that generally when asked  
3 questions he would give short, one word answers when he was back in  
4 his cell?

5           A.    Yes, sir.

6           Q.    And that raised some eyebrows not only with you but also  
7 with your staff?

8           A.    Yes, sir, they noticed a decrease in communication, yes,  
9 sir.

10          Q.    And you thought that there was a very clear difference in  
11 how PFC Manning was interacting with you and how he was interacting  
12 with the doctors?

13          A.    Yes, sir.

14          Q.    The difference that you saw was a factor that you  
15 considered when deciding if he needed to be in MAX and POI, is that  
16 correct?

17          A.    Again, sir, the decreased communication, yes, that -- as  
18 far as the POI status, yes. But as far as the maximum custody thing,  
19 that's slightly different; the factors are a little bit different  
20 there.

21          Q.    So the decrease in communication only went towards the POI  
22 determination?

23          A.    Well, for the most part, sir, yes.

1 Q. Okay. And you said that when you first got there in late  
2 January, and for the first month into February, his interaction with  
3 you was much more open at that time?

4 A. In the first few weeks, sir, yes.

5 Q. And he seemed to be in a pleasant mood at that point?

6 A. Yes, sir, when I would talk to him.

7 Q. And it was only at some point later after, I guess, the  
8 first few weeks or so that he became more withdrawn?

9 A. Yes, sir.

10 Q. Did you consider that PFC Manning might have become more  
11 withdrawn because he was upset about having his underwear taken away  
12 from him at the first -- basically the 2d and 3d of March?

13 A. I'm sure he would be, sir.

14 Q. Would you consider that as a possibility of why he might  
15 have become more withdrawn?

16 A. Well some of that being it took place before the incident  
17 with his underwear, to be very honest, sir, so -- as far as kind of  
18 like decreased communications. You know, that could have been  
19 something that upset him. But, again, I afforded him every  
20 opportunity to discuss that with me.

21 Q. Did you consider that, at least as we go into March and  
22 then in April when you document it even more how he's withdrawn, that  
23 PFC Manning believed words that he said might be used against him?

1           A.    Yes, sir, 'cause there's an incident where we talked --  
2 going back to the voluntary statement, that kind of thing, and I just  
3 kind of told him I understand, but communi -- communication with the  
4 staff is sort of vital. I mean I can't force him to talk, and I'll  
5 never do that, but I would just let him know it helps you out, you  
6 know, if you communicate more.

7           Q.    You indicated that you had some detailed conversations with  
8 him that were more detailed than the walking by the cell and asking  
9 how you're doing --

10          A.    Yes, sir.

11          Q.    -- is that correct?

12          A.    Yes, sir.

13          Q.    And in some of these conversations you would stress to PFC  
14 Manning the importance of being open and honest with communicating  
15 with you and also with the staff?

16          A.    Yes, sir.

17          Q.    And you told him that you had no issues -- and I believe  
18 you even testified on direct -- you had no issues taking him off of  
19 POI?

20          A.    That's correct, sir.

21          Q.    He just had to do the work that you believed he needed to  
22 do to give you the reasons to do that?

23          A.    That's right, sir.

1           Q.    And you told him that it was really up to him whether or  
2 not he would remain in MAX and POI?

3           A.    I said -- I don't recall if I said that exactly, but I did  
4 say, hey, you can effect change. And I'm telling you what you need  
5 to do. But I need to see that from you.

6           Q.    And I think an example that you gave and the note that we  
7 wrote down was just basically something along the lines of him saying  
8 to you, I respectfully request to be removed from POI; I'm not  
9 suicidal. I understand the way you might have taken certain things  
10 that I might have done or said in the past, and that might have made  
11 you uncomfortable. But I'm telling you now as I sit here that's not  
12 the type of mood I'm in. And, you know, would you please consider  
13 removing me from MAX and POI?

14          A.    Honestly, sir, yeah.

15          Q.    So if -- if he said something along those words, you know,  
16 essentially, that would have given you at least a -- a better feel  
17 and perhaps a desire to take him off MAX and POI once you heard that?

18          A.    In addition to -- to behavioral changes 'cause, again, it's  
19 not just so much him saying, well, I don't want to kill myself, but,  
20 again, based on the behavior and the things he was doing in his cell,  
21 yes. Had I seen that that stopped and in addition to making a  
22 statement along those lines, sir, yes.

23          Q.    And we covered the statement that he made to Gunny Sergeant



1 Blenis on the 18th of January. And I think you agreed that that was  
2 an example of a kind of -- the statement you might be looking for --  
3 that was one example of it, correct?

4 A. Could you repeat that, sir?

5 Q. Right. The statement PFC Manning made to Gunny Sergeant  
6 Blenis on 18 January where he said, hey, what happened in Kuwait, you  
7 know, is totally different from here. What happened in Kuwait; I  
8 wasn't lucid, here I'm lucid. That was an example of the type of  
9 statement that you were looking for -- some assurances from him?

10 A. One of the -- along those lines -- something like that,  
11 sir, yeah.

12 Q. Okay. And you thought that PFC Manning needed to show you  
13 that you would be making the right decision if you removed him from  
14 MAX and POI?

15 A. Can you repeat that question, sir?

16 Q. Sure. When you were talking to PFC Manning, you're  
17 basically telling him that he needed to show you that you'd be making  
18 a right decision if you ultimately said I'm taking you off MAX and  
19 POI; and he'd show you that through his conduct and what he would  
20 say?

21 A. Yes, sir.

22 Q. And at a certain point, I guess in the March and April  
23 timeframe, the C&A board notes and your weekly progress reports start

1 to document the fact that PFC Manning is not communicating with you,  
2 is that correct?

3 A. I'd have to take a look at those, sir, to see which ones  
4 you're talking about.

5 Q. Sure.

6 [Pause]

7 CDC[MR. COOMBS]: I'm handing you Enclosure 22 of Appellate  
8 Exhibit 259; these are your weekly ----

9 WIT: Okay.

10 CDC[MR. COOMBS]: ---- progress reports -- and let me make  
11 sure of that. Yes. So if you'd glance that that for a moment  
12 [handing the document to the witness].

13 WIT: Which dates did you want me to look at, sir?

14 CDC[MR. COOMBS]: If you start going into March and April,  
15 Chief.

16 [The witness did as directed and reviewed the documents.]

17 CDC[MR. COOMBS]: I'm also going to show you Enclosure 32 of  
18 Appellate Exhibit 259 [handing the documents to the witness]. These  
19 are the ----

20 WIT: Okay, sir, but can I get through this first though?

21 CDC[MR. COOMBS]: Sure. These are the C&A board reports.

22 WIT: Okay.

23 CDC[MR. COOMBS]: So these will also document towards the

1 bottom then concerns that you had about him ----

2 WIT: Okay.

3 CDC[MR. COOMBS]: ---- not speaking to you. So you might be  
4 able to marry them up with the weekly reports.

5 WIT: Okay, sir.

6 CDC[MR. COOMBS]: So really here -- this might be the quickest  
7 way you can find it; March 4th, which is Page 13 of 26 for Enclosure  
8 32, is the first time you start to say his behavior's erratic. But  
9 then as we go into the subsequent ones, you start to document the  
10 decreased ----

11 MJ: Are you talking about the weekly reports -- is that what  
12 you're looking at?

13 CDC[MR. COOMBS]: Two things, ma'am, the C&A board, which is  
14 Enclosure 32, and then the weekly reports as well.

15 WIT: Okay.

16 CDC[MR. COOMBS]: And I'll just set this here [handing the  
17 documents to the witness].

18 [The witness reviewed the documents.]

19 CDC[MR. COOMBS]: And, Chief, just so we know, I'm not asking  
20 you to find like a particular example; just that -- from your memory  
21 -- and you might be able to say this from your memory without looking  
22 at this, that you start documenting in the March and certainly in the  
23 April timeframe the decrease in communication by PFC Manning with you

1 and the staff.

2 WIT: Okay.

3 CDC[MR. COOMBS]: So if you need to look at that to refresh  
4 your memory, that's fine. Or if you can testify to that, that's fine  
5 as well.

6 [Pause while the witness reviewed the documents.]

7 WIT: Yes, I made some annotations there, sir.

8 [Examination of the witness continued.]

9 Q. Okay, do you see how your -- both your weekly reports and  
10 then -- even the annotations on the C&A board start to document more  
11 in the March and April timeframe the fact that PFC Manning's no  
12 longer really communicating well with you and the staff?

13 A. Right.

14 CDC[MR. COOMBS]: No I'm handing you what's been marked  
15 Appellate Exhibit 441E [handing the document to the witness].

16 WIT: [Looking through the documents] Okay.

17 Q. Now this is an email from you where you communicate to  
18 Colonel Oltman some of these same concerns. This email's dated 12  
19 April ----

20 A. Okay.

21 Q. ---- and you told Colonel Oltman "I told him that when he  
22 does not capitalize on opportunities such as using the DD Form 510  
23 process, appearing in front of the C&A board; he's not helping his

1 case." Do you see that?

2 A. Yes, sir.

3 Q. And basically in this one you're talking about the fact  
4 that PFC Manning is not communicating well with you and the staff?

5 A. May I read that whole paragraph for a second, please?

6 Q. Oh, sure.

7 [The witness reviewed the document.]

8 A. Oh, yeah, I mentioned appearing in front of the C&A board,  
9 but -- okay.

10 Q. And basically the overall tenet of this email is the ball's  
11 kind of in PFC Manning's court; if he wants to do the work, you're  
12 willing to meet him halfway and perhaps take him off of MAX and POI?

13 A. That's correct, sir.

14 Q. And you're talking to him again about his lack of  
15 communication with you and the staff?

16 A. Say that again, sir?

17 Q. You're -- when you're doing this, you're telling PFC  
18 Manning about your concern of his lack of communication with you and  
19 the staff?

20 A. Right -- and other things. That's right, sir.

21 Q. Right. Now you remember on particular conversation where  
22 PFC Manning got a little disrespectful or a little testy with you, is  
23 that correct?

1           A.    Yes, sir.

2           Q.    And he was testy because he was frustrated about his MAX  
3 and POI status?

4           A.    That's right, sir.

5           Q.    And you had to remind him he was speaking with a  
6 commissioned officer and could, in fact, be written up for  
7 disrespect?

8           A.    If it continued; I did, sir.

9           Q.    And you suggested that he might have to go back to his cell  
10 to calm down in order for you to continue your conversation?

11          A.    Yeah. I told him -- I said, you know, if you're  
12 frustrated; I understand that. That's a natural reaction and I'm  
13 good with that, but the way you c -- the way you communicate your  
14 thoughts is the key thing. And I told him, I said, if you want --  
15 you can go back to your cell for a few minutes if you want or we can  
16 continue to talk. I said, but from this point on now that you know I  
17 don't tolerate disrespect. I said, we're carrying on business as  
18 usual. So there was never a kind of chastising him in that sense. I  
19 just kind of cautioned him real quick and -- so he kind of  
20 understood.

21          Q.    And he, in fact, apologized?

22          A.    Yes he did.

23          Q.    And then you continued your conversation?

1           A.    Yes, sir.

2           Q.    And during that conversation you went into detail that as a  
3 detainee his entire record could actually show up in court?

4           A.    Yes, I said that.

5           Q.    And you told him that if there was negative stuff in his  
6 record that that could, in fact, impact the sentence that he might  
7 receive?

8           A.    If a progress report is requested, yes, I explained that,  
9 sir.

10          Q.    And you asked him not to put you in that position to where  
11 you might be putting something negative into your weekly reports?

12          A.    I did. I just kind of said, hey, I don't like prisoners  
13 getting -- detainees getting written up. I said -- so please don't  
14 put me in that position. 'Cause, again, with the progress reports, I  
15 can't pick and choose what I put in it. It has to be -- you know,  
16 the standard name ----

17          Q.    [Responded in the affirmative.]

18          A.    ---- work assignment, custody, but behavior issues have to  
19 be annotated as well. So I did say, you know, hey, please don't put  
20 me in that position to write something negative.

21          Q.    And you told him that when you write up your progress  
22 reports and it's negative, he would only be hurting himself at that  
23 point?

1           A.    I don't recall if I said that exactly. But I just know I  
2 kind of stressed the point that, you know, if we're asked for  
3 progress reports it's in your best interest if it looks good. So,  
4 you know, it helps you out, or something along those lines.

5           Q.    And PFC Manning indicated he understood what you were  
6 saying?

7           A.    Yes, sir.

8           Q.    And can you see how what you were saying could be perceived  
9 basically as a -- a threat to him?

10          A.    No because -- to be very honest, sir, I'm -- I was talking  
11 to him just like I'm talking to you now. And I just kind of -- for  
12 me it's one of those things I like to let prisoners know -- or  
13 detainees -- hey, here's the rules in case you don't know. But he --  
14 well anybody could take it as a threat, like, hey, you better behave  
15 or else, but that's certainly not how I communicated it. Again, I  
16 was talking to him in the same tone like I'm talking to you ----

17          Q.    [Responded in the affirmative.]

18          A.    ---- and, again, by me asking him, hey, please don't put me  
19 in that position, I wouldn't think -- I would see that as, hey, I'm  
20 trying to help you, because if this continues to happen then you'll  
21 get a disciplinary report, and you don't want that. So I just think  
22 what I said to him in conjunction with my demeanor, I don't see how  
23 he would have taken it as a threat. But, again, we're two different



1 people -- and he could have -- but it wasn't expressed to me if he  
2 did take it that way.

3 Q. And could you see if he did take it that way why he might  
4 become less talkative with you and the staff?

5 A. Possibly, sir.

6 Q. All right. Now aside from the differences you observed  
7 between PFC Manning with the doctors and with the staff, another one  
8 of the factors that you considered for MAX and POI was the general  
9 behaviors that were being documented, is that correct?

10 A. Well, for the POI part, sir, yes.

11 Q. And what specifically from the standpoint of the general  
12 behaviors were you documenting?

13 A. I didn't hear you, sir. Could you say that again?

14 Q. Right. For the general behaviors that were being  
15 documented that you considered, do you recall what those behaviors  
16 were?

17 A. At one time I was down there and he was sitting on his rack  
18 either pretending to be fishing or doing something -- I mean, to be  
19 honest with you, sir, I didn't see that like every day that I went  
20 down to special quarters. But there were times that I happened to  
21 notice it 'cause, again, I would make more than one trip down there.  
22 You know, I was told about the incident, you know, he talking to  
23 himself in his cell, or acting things out; things like that.

1 Q. Okay.

2 [Pause]

3 CDC[MR. COOMBS]: I'm retrieving from the witness Appellate  
4 Exhibit 441E and handing the witness Appellate Exhibit 441F  
5 [retrieving and handing the exhibits as indicated].

6 WIT: Yes, sir.

7 Q. Now in this email you describe what you just testified to;  
8 of seeing PFC Manning either talking briefly to himself or talking to  
9 himself when you were walking by, correct?

10 A. [Looking at the document] Yes, sir. I'm reading through it  
11 now.

12 [Pause]

13 WIT: Okay.

14 Q. And you -- you believe that when you were walking by PFC  
15 Manning was actually talking to himself, right?

16 A. That's -- that's what I noticed, sir.

17 Q. And I think what you noticed -- or what you believed he was  
18 either mumbling or saying things with no one else around?

19 A. That's correct, sir.

20 Q. And you considered that unusual?

21 A. Yes, sir.

22 Q. And did you talk to PFC Manning about that? Did you stop  
23 and talk to him to say, why are you talking to yourself?

1           A.    No, sir, because when I brought some of these concerns up  
2 to Colonel Malone, you know, he said that -- to be honest, he said  
3 that's no real cause for alarm, and to, you know -- he wouldn't -- he  
4 said, I wouldn't engage him on that.

5           Q.    Yeah ----

6           A.    'Cause that's -- again, I respect the -- their expertise.  
7 And, also, me myself I would just ask questions even outside of, you  
8 know, what they put down. So I do remember him saying that. And so  
9 I just kind of -- but, you know, again, whenever I got in front of  
10 his cell, very respectful -- he'd stand up -- good morning, ma'am, or  
11 whatever. So -- and it just stopped.

12          Q.    Okay, so when you addressed these behaviors with Colonel  
13 Malone, you also addressed the fishing rod behavior with Colonel  
14 Malone as well, correct?

15          A.    I just gave him example of things we saw -- we saw, sir,  
16 yeah.

17          Q.    Yeah, the email captures where you talked to Colonel Malone  
18 about PFC Manning acting as though he's casting a rod and fishing.  
19 And even with that, Colonel Malone said that that was not something  
20 that you needed to be alarmed with as far as a mental health issue,  
21 correct?

22          A.    Right.

23          Q.    Colonel Malone told you that PFC Manning was fine from a

1 psychiatric prospective and there was really nothing to treat him  
2 for?

3 A. That's correct, sir.

4 Q. Now you also gave another instance of PFC Manning using his  
5 glasses basically as tweezers?

6 A. Yes, sir.

7 Q. And do you know with regards to that if you addressed that  
8 behavior with Colonel Malone?

9 A. I mean I could have. To be honest with you, sir, again,  
10 when they first come into the facility I kind of talk about, hey,  
11 this is what the staff's reporting, or whatever the case is, and go  
12 over that. So it's very possible that I could have discussed that.

13 Q. And was that behavior something that caused you to think  
14 that he was trying to harm himself?

15 A. Not that in particular, sir. I mean, he wasn't like trying  
16 to break it off and jab it into his neck.

17 Q. Right.

18 A. I mean -- and the guards just happened to see him. And he  
19 says, hey, you know, what are you doing? And the guard just told  
20 him, "Hey, just wear your glasses, don't use it for that."

21 Q. Okay, so what PFC Manning was doing with his glasses was  
22 not something that was causing the staff alarm as far as him trying  
23 to take his own life or harm himself?

1       A.    Not at that time, sir, no.

2       Q.    Now you talked about PFC Manning not being a disciplinary  
3 problem. There were a couple of times where he had to be counseled  
4 though for minor issues, correct?

5       A.    That's correct, sir.

6       Q.    But overall would you say as you're on the stand now that  
7 PFC Manning was overall a good detainee?

8       A.    Overall, sir, yes. I mean, I wouldn't go as far as to say  
9 perfect or model 'cause there's been prisoners in there who's never  
10 been counseled before. But generally, yes, he's a good detainee.

11      Q.    Okay. And let's talk about some of the instances where you  
12 had to counsel him though, okay?

13      A.    [No response.]

14      Q.    If you go to Page 99, I believe, of 109 within your weekly  
15 reports.

16      A.    Okay. What page, sir?

17      Q.    I think it's 99. Let me see if this is the right one  
18 [looking through the documents that the witness has].

19      A.    Okay.

20      Q.    It is -- okay. Let me just turn it for you [turning the  
21 page in the documents for the witness]. Here.

22      A.    Okay.

23      Q.    All right. So this, again, your weekly progress reports on

1 PFC Manning?

2 A. [Looking at the document] Right.

3 Q. And on this report you document where PFC Manning initiated  
4 movement by himself when restraints were being put on, correct?

5 A. Okay, well I myself didn't document that. This is, again -  
6 - this is typed up and brought to me for my review. What paragraph  
7 are you reading, sir?

8 Q. It should be where I've -- I've marked it for you.

9 A. [No response.]

10 Q. And just so -- I'll wait till you're done then -- let me  
11 know.

12 [Pause while the witness looked through the document.]

13 A. You said where it's marked. So which one -- is this on the  
14 same page? Could you point out ----

15 Q. Sure. Do you ----

16 A. ---- was that what you're referring to?

17 Q. ---- do you see anywhere where he is counseled for moving?

18 A. [Looking through the document] No visitation ----

19 Q. [Looking at the document with the witness] Not to move.

20 A. [Reading from the document] He just said, okay, I counseled  
21 -- SM was suspected of. Okay, this is Gunnery Sergeant Blenis and  
22 not me, sir. So that -- I was just a little confused there. But he  
23 was just saying that although he's used to the routine of restraints

1 being applied, he's to follow the direction of the staff member and  
2 not to move forward in the process until given instructions.

3 Q. Okay, and -- so I understand, again, these weekly progress  
4 reports; you ultimately sign off on them, right?

5 A. That's correct, sir.

6 Q. And I guess when you do that you're verifying the  
7 information within it is correct to the best of your knowledge?

8 A. That's correct, sir. I mean 'cause most of the time if an  
9 incident report is filled out, it'll come to my desk, I'll review it,  
10 sign it, so 9 out of 10 times when I get this it'll have that in it.  
11 So -- I mean it captures the same information, sir.

12 Q. Okay. And so Gunny Sergeant Blenis in his counseling notes  
13 documented the fact that PFC Manning needed to be counseled because  
14 he moved or initiated movement when restraints were being placed upon  
15 him?

16 A. Yes. When he says "counseled," sir -- let me just explain  
17 it briefly ----

18 Q. [Responded in the affirmative.]

19 A. ---- that -- that could be something as simple as, hey, you  
20 know -- something simple as, hey, tuck in your shirt or something  
21 like that. So, you know, it's not necessarily punitive or bad.

22 Q. Right.

23 A. But, again, something like that, we just -- that's just the

1 term we use when we say, hey, we counseled them on or -- that means  
2 we explained to them, hey, don't do this or don't do that.

3 Q. Right. And the counseling could be verbal ----

4 A. Right.

5 Q. ---- or it could actually be written, correct?

6 A. That's correct, sir.

7 Q. And it could wind up on a hard card?

8 A. Yes, sir. Normally they annotate that on the hard card.

9 Q. All right, in this instance he was told not to do that, and  
10 do you know if PFC Manning ever violated that after this time period?

11 A. I'd have to look at his hard cards, sir. I mean, to be  
12 very honest, this is going back well over a year and I can't say.  
13 But, I mean, for the most part they did document things on the hard  
14 card, negative or positive. So.

15 Q. From your memory, and I know it has been over a year -- and  
16 you can say I don't recall -- but do you recall him ever being  
17 counseled again for initiating movement?

18 A. I don't recall, sir.

19 Q. Okay. And in this instance the reason why he was counseled  
20 for initiating movement was, you know -- that could be  
21 misinterpreted, correct?

22 A. Well a couple of things -- yes, it could be misinterpreted  
23 as, hey, you know, you trying to make a move? What are you trying to



1 do? The other concern we have though -- so that he doesn't possibly  
2 fall and hurt himself 'cause, again, you know, leg restraints, that  
3 kind of thing has to be applied. And, you know, the main concern,  
4 sir, again, is just safety -- not moving around, and just pushing  
5 your hands through the feed tray before the guard is ready -- we  
6 caution inmates about that, sir.

7 Q. Okay. And do you ever recall saying the reason why he was  
8 counseled is because if he falls his attorney might have a field day  
9 with that?

10 A. I don't recall saying that, sir. I mean -- you know,  
11 again, my issue is the safety, security, and custody of those  
12 prisoners. And, you know, again, for me, I'm just big on safety all  
13 around. So I don't recall making a comment as far as his attorney  
14 having a field day with that.

15 Q. Okay. If you'll look at your 23 February report -- and  
16 also -- I guess it's 23 February through 1 March.

17 A. [Looking through the documents] Wait a minute.

18 Q. You document -- and you might be able to testify from  
19 memory on this -- where PFC Manning was counseled several times for  
20 lining out statements on a voluntary report.

21 A. [Looking through the documents] Hold on. Let me get there,  
22 sir. You said 23 February?

23 Q. Right. Just from your memory ----

1 A. Okay.

2 Q. ---- and if you have to resort to that, that's fine. But  
3 do you recall PFC Manning being counseled for lining through  
4 voluntary statements?

5 A. Yeah, he was crossing out words on the form and things like  
6 that. And he was told, hey, that is an OPNAV form -- for what I  
7 recall -- you know, don't alter the form. If you don't want to fill  
8 out the voluntary statement or whatever, you know, that's one thing.  
9 But altering the form itself, no, you don't do that.

10 Q. And PFC Manning explained that his attorney advised him not  
11 to fill out voluntary statements?

12 A. He told me that, sir. Yeah.

13 Q. And he was counseled though for -- for -- when he chose to  
14 -- for drawing out or lining through portions of the voluntary  
15 statement?

16 A. Right. He was just told, hey, look, if you're going to  
17 fill it out, just put the information in there and do not cross the  
18 words out or "X" things out. That's correct.

19 Q. And were you ever told that the reason why he was crossing  
20 through some of the voluntary statements was because he wasn't  
21 voluntarily giving up his rec call?

22 A. No, sir. He told me that the reason why he was doing it  
23 was because you told him do not fill out forms or make statements.

1 And he did mention the word "sworn" and I said, you know, this is a  
2 voluntary statement. But, no, he's never said that because he didn't  
3 want to give up rec call. Again, sir, I hold the staff accountable.  
4 He knows that. He's heard me express that in front of Master  
5 Sergeant Blenis and Master Papakie. And something like him not  
6 getting rec call, believe you me, that had better come from him as he  
7 said he didn't want it. I mean, there were times when, you know -- a  
8 couple of times he didn't feel well. They called the doc.  
9 Everything was all right. He just -- times he just did not feel like  
10 going, which is fine. So definitely he never said that I did that  
11 because, well, it wasn't voluntary. No. Whenever he did not get  
12 recreation call, that was solely because he said "I don't want rec  
13 call today." And that he's entitled to do that.

14 Q. And you wanted the voluntary statements because you wanted  
15 to make sure it was PFC Manning's choice not to do rec as opposed to  
16 the staff just saying we don't have time in the plan of the day to  
17 give you your rec call?

18 A. Absolutely. Not that I distrust the staff, but, again, I  
19 just like to make sure that prisoners are taken care of. And, you  
20 know, if that's something he gave up, whether it was that or  
21 visitation, that I needed to know -- hey, ma'am, you know, I just  
22 didn't feel like rec call.

23 Q. All right, and you also note in one of your weekly reports

1 that PFC Manning was counseled for making a head call when a female  
2 was present. Do you recall that?

3 A. Yes, sir.

4 Q. And do you recall the circumstances of that?

5 A. No. I was briefed on it. And they put a note on his hard  
6 card. But, again, if I don't see chronic infractions of the same  
7 thing, I don't go crazy. Okay, he was told -- and they give those  
8 class in indoc -- obviously there are females on the staff, so all  
9 inmates are told of that. I don't know if one day maybe he forgot or  
10 really had to go. So being counseled on it, again, it's just one  
11 little entry on the hard card. Now had he done that over and over  
12 and over then obviously they could have done a disciplinary report.  
13 And to my knowledge that wasn't the case.

14 Q. Okay. And then also in your weekly reports you document  
15 that he was counseled by the staff for covering himself completely  
16 after taps. Do you recall that?

17 A. Oh, yes, sir. That -- they brought it to my attention.  
18 And, again, at that level when they make simple corrections, hey,  
19 don't do this, don't do that -- some minor documentations just to  
20 say, hey, we told him that. But, again, these things -- these  
21 actions are standard with all inmates. So.

22 Q. And in -- my understand is that he was wearing the suicide  
23 smock at this time, correct?

1 A. Well it would depend on the day, sir. So I'd have to look.

2 Q. If it was -- if it were in the latter part of March?

3 A. Yes; if it was later in March then that would be correct,  
4 sir.

5 Q. And he was covering himself then with -- in order to cover  
6 himself it would have been with his suicide prevention blanket?

7 A. Yes, he would have to use that, sir, because he had two of  
8 them. So he would -- that's probably what he covered himself with.

9 Q. And that would be doing something that -- unless the staff  
10 knew he was doing right when he went to bed, he would be doing that  
11 when he was asleep, correct?

12 A. Say that again, sir.

13 Q. Yeah. Like if you're in bed ----

14 A. [Responded in the affirmative.]

15 Q. ---- and the staff sees you do it like right when you go to  
16 bed -- cover yourself -- that would be a voluntary action on your  
17 part, right?

18 A. Well, yeah, but, again, they're not allowed to cover their  
19 heads at any time, sir, whether they first lay in the rack or -- or  
20 if they wake up in the night, use the head, and do it. But, no,  
21 they're not supposed to do that.

22 Q. And if they do it when they're asleep, you know, they cover  
23 themselves just while they're asleep, then in that instance that

1 would be involuntary behavior, would you agree?

2 A. I mean, I don't -- I mean I don't know exactly what you  
3 mean. I mean if they cover themselves, they cover themselves. I  
4 mean -- but I'm not -- are you trying to get at the point that, okay,  
5 he's sleeping, and then maybe he rolls over and somehow he ends up  
6 with his head being covered or something like that?

7 Q. Right.

8 A. Well, I mean, if that's the case, sir, then, yes. But in -  
9 - even in that instance they will, you know, definitely try without  
10 awaking him or -- or if they can't -- if -- you know, they'll kind of  
11 try to tell him without him or the rest of the detainees -- please,  
12 uncover your head. But, again, I'm not sure that during the times he  
13 was actually sleeping that, you know, that that occurred. I'm not  
14 sure.

15 Q. Okay. And there was another occasion where he was  
16 counseled because he didn't eat his entire noon meal. Do you recall  
17 that?

18 A. I don't believe he was counseled in that sense like, hey,  
19 you did something wrong. But, you know, we try to encourage them to  
20 finish their meals because -- especially at dinner. It's a long time  
21 again. They don't eat again until -- till -- till breakfast time in  
22 the morning. So, you know, he was -- he probably was just told, hey,  
23 try to finish your -- your meal.

1 Q. Do you recall if he was counseled based upon his response  
2 when he was told to finish his meal?

3 A. I don't recall, sir. I would have to either look at the --  
4 the incident report or the hard card. It's kind of hard for me to  
5 say.

6 Q. Go ahead and take a look at your 23 March 2011 report.  
7 [The witness did as directed.]

8 Q. Actually it carries from 23 March to 29 March. So I'm not  
9 for sure if he would have had -- it might have been the later part of  
10 the page.

11 A. [Looking through the documents] Okay. Okay.

12 Q. And I think it's going to be on the second page [assisting  
13 the witness looking through the documents].

14 A. All right [looking through the documents].  
15 [Pause]

16 A. [Reading from the document] Well it says he was also upset  
17 about being questioned as to why he did not eat his entire noon meal.  
18 SND was told not to take these personally and that the staff is going  
19 to make corrections when necessary or ask questions if they see  
20 something out of the ordinary. And that's just as simple as, hey,  
21 how come you didn't eat all your chow today? Or is everything okay?  
22 And it probably was something as simple as that, sir.  
23 Q. Was he counseled for his response or not?

1 A. [Looking at the document] Let's see.

2 [Pause]

3 MJ: Are you on 23 March?

4 CDC[MR. COOMBS]: That's the 30 March one.

5 MJ: 30 March.

6 [Pause while the witness read the document.]

7 A. [Reading from the document] No, it just says one behavioral  
8 observation report submitted on 28 March 2011 annotating SND's lack  
9 of desire to eat his full noon meal. So something like that is not a  
10 counseling like he's doing something wrong. Those are things we  
11 annotate for the record so if we see a pattern of missing meals, then  
12 we can go back and say, hey, this started on this day or whatever.  
13 So it's not a thing of, you know, he's being counseled like, well,  
14 you absolutely did something wrong. If he doesn't feel good or for  
15 some reason he doesn't have an appetite, we're not going to ram the  
16 food down his throat. So.

17 Q. Right. But then he -- he got upset -- and was he counseled  
18 for his response?

19 A. I don't see that that's suggested here though. I mean, he  
20 just -- I just see what Gunny Blenis said that -- that he said. He  
21 just kind of -- you know, he just kind of seemed irritated that --  
22 that they even asked about it.

23 Q. Okay.



1           A.    So I don't know that the counselor -- the counsel was  
2 achieved for him -- you know, responded to them and then  
3 disrespectful then -- I don't know, sir.

4           Q.    All right. The entire time that you were at Quantico, you  
5 had PFC Manning in MAX and POI, correct?

6           A.    Yes, sir.

7           Q.    And you recognize that holding people in MAX is a manpower  
8 intensive endeavor for your staff?

9           A.    Yes, sir.

10          Q.    It's also taxing on the detainee, is it not?

11          A.    I'm sure it is, sir, absolutely.

12          Q.    And you would only hold a detainee in MAX if it was  
13 absolutely necessary?

14          A.    That's right, sir.

15          Q.    Now let's talk about some of the restrictions that PFC  
16 Manning was held in while he was in MAX under your command.

17          A.    Okay.

18          Q.    Did you continue all the same restrictions as Chief  
19 Averhart?

20          A.    I mean the handling letter, yes, remained the same. But  
21 any MAX POI or MAX SR, sir, yes, those were the same.

22          Q.    So you agreed with each of those restrictions that Chief  
23 Averhart had prior to you taking command?

1       A.    Oh, yes, sir.

2       Q.    And you believe each were absolutely necessary?

3       A.    Yes, sir.  But, again, that was nothing out of the ordinary

4 for any other MAX detainee anywhere else.

5       Q.    And I want -- I want to use your experience to see if this

6 is true.  For MAX detainees, you said that MAX detainees get one hour

7 of rec?

8       A.    All prisoners get one hour of rec call, sir, to include

9 maximum.

10      Q.    And why is that?

11      A.    I mean, recreation is important.  I mean, they get a chance

12 to go outside or indoors if it's below 32 degrees.  We have equipment

13 inside for them to use.  But recreation call; we had it on the plan

14 of the day because we feel it's important that they get recreation

15 call.

16      Q.    So would I be wrong if -- like you say you're coming now as

17 your position as the Deputy IG, right?

18      A.    Yes, sir.

19      Q.    If I'm the commander of a facility, you come in and you see

20 all my MAX detainees are getting 20 minutes of Sunshine Call, and you

21 ask me about that as a Deputy IG.  And I tell you MAX people get 20

22 minutes of Sunshine; that's by reg.  What do you say to me?

23      A.    And I say, you know -- because things like rec call and

1 Sunshine Call, that's at the CO's discretion. And, you know, it's  
2 based on a lot of things; behavior or whatever. So the CO has that  
3 discretion, but -- well this -- that wouldn't be an IG issue  
4 necessarily, but -- to be honest with you -- me -- I might ask you,  
5 you know, do they get recreation call? Do you have facilities  
6 available? What do you do if it's cold outside? Do you have  
7 somewhere for them to go do rec call -- that kind of thing.

8 A. And what if I tell you as the commander; if you're in MAX  
9 you're automatically only given 20 minutes of Sunshine. That's the  
10 way I read SECNAV instruction. And let's say a whole bunch of the  
11 detainees complain about it to the IG and that's why you're there.

12 A. Okay.

13 Q. Are you coming with your correctional experience saying  
14 that I'm wrong? Or are you saying -- are you saying the SECNAV does  
15 say you only get 20 minutes of Sunshine Call if you're a MAX?

16 A. Well, I would go with what the SECNAV says. But, again, I  
17 would also reiterate the fact that recreation call, if possible and  
18 if feasible, should be given. And the SECNAV outlines that as well.  
19 So me personally, I would prefer the rec call, but that's something I  
20 would ask you like why are you only doing Sunshine Call, you know.  
21 What's the deal with recreation call? Is it that he -- maybe you  
22 don't have equipment or something is wrong in the outside perimeter  
23 that it can't be done. So I would ask those questions.

1 Q. And I guess that's what I'm trying to get at. To your  
2 knowledge does the SECNAV restrict MAX detainees to 20 minutes of  
3 Sunshine Call?

4 A. I -- that's something I'm not sure of, sir. But, again,  
5 from my experiences and everything we've always done an hour of rec  
6 call. But I do -- I am familiar with other facilities with MAXs --  
7 depending on, you know, behavior -- that kind of thing -- that I was  
8 -- I mean, in other facilities where, yes, they would do -- take them  
9 out to Sunshine Call 20 minutes -- 30 minutes. But, again, a lot of  
10 this, sir, is at the CO's discretion based on behavior.

11 Q. And now let's talk about with you -- just you as the CO;  
12 when would you take a MAX detainee's one hour of rec call away and  
13 say you're only getting 20 minutes of Sunshine Call?

14 A. I wouldn't. Now if there's an issue with -- with behavior  
15 problems or, you know, not using the equipment properly, we would  
16 give them a chance to say, hey, look this is not what you do, blah,  
17 blah, blah. But I mean me personally, unless it was some grave  
18 something, you know, like this person is just like very belligerent,  
19 disciplinary problem -- because recreation call is really an  
20 incentive, you know, for them to work towards. So for me, unless  
21 maybe they did something really out of line and -- or they have a  
22 patterns of little -- getting counseled on times for things, then  
23 that could be one of the things I might restrict or limit.

1 Q. Would you see a problem if a detainee's otherwise very  
2 compliant, following the rules, continuing a detainee on just 20  
3 minutes of Sunshine Call for say 5 months -- would that ----

4 A. I wouldn't do it, but, again ----

5 Q. And why? That's what I want to get at.

6 A. I mean for me -- again, I look at things that are important  
7 to inmates; recreation call, mail call, visitation, chow, phone  
8 calls. So for me they're just some things that I know that's  
9 important to them that I recognize. So whenever possible, I always  
10 try to make sure that they'll be afforded all those opportunities,  
11 again, unless it's a disciplinary problem, they're abusing some kind  
12 of privileges, some kind of way. But, no, I -- I like that they keep  
13 those -- get those incentives.

14 Q. Okay. Have you ever had a detainee where you kept them  
15 with just 20 minutes of Sunshine Call for five months?

16 A. No, sir.

17 Q. Now let's just talk about -- I just want to verify the  
18 restriction -- or conditions under your view of MAX, okay?

19 A. Okay.

20 Q. My understanding is that PFC Manning was placed in a cell  
21 directly in front of the observation booth?

22 A. Well his cell's changed from time to time so it wasn't --  
23 you know, they could see him most -- most of him in his cell. But he

1 changed cells from time to time. But one of them -- yes, they had a  
2 lot of vision on him, yes.

3 Q. The other cell that he was in was that still within  
4 eyesight of the observation booth?

5 A. Yes, sir. But it's just -- depending on the cell; some had  
6 more -- they could see him more than maybe other.

7 Q. And my understanding PFC Manning and everyone else was  
8 awoken at 05 and then 2200 were taps?

9 A. Yes. Reveille was 05 and taps was 2200, sir.

10 Q. And during the duty day was not allowed to lie down on his  
11 rack?

12 A. No inmates are allowed to lay on their rack or sleep unless  
13 they're on medical segregation and the doc' orders that.

14 Q. And I imagine -- we've heard other testimony where -- if  
15 there's other positions that you might go into that they wouldn't  
16 allow you to go into because you -- it might induce sleep. Like  
17 could -- could you lie down on your stomach reading a book?

18 A. No, sir.

19 Q. And that reason why would be that might bring on falling  
20 asleep?

21 A. And it's still laying in their rack. And, again, sir, it's  
22 pretty busy in there during the day between either the brig chaplain  
23 coming on MO, the corpsman, me making my rounds, it could be the

1 battalion commander -- from time to time, he came by to see the  
2 inmates. So, to be honest with you, we always kept them up. The  
3 other inmates who worked, they weren't allowed to sleep either. So  
4 we always tell them, you know, hey, sit up on your rack. At any  
5 given time they may have an attorney visiting. So, no, we don't  
6 allow any inmates, again, to sleep unless it's a medical condition  
7 that allows that and we -- the doc' tells us so.

8 Q. And so -- and I understand that. So are there any  
9 positions that a detainee is not allowed to be in on the rack because  
10 of the fear that you might fall asleep?

11 A. Well, I would say laying down in any form, sir. I mean  
12 it's -- they're probably more likely to get more comfortable laying  
13 down and could fall asleep.

14 Q. What about if -- if you're on the rack and you're sitting  
15 down and you're leaning up against the wall. Can you do that?

16 A. Yeah, if he's sitting on his rack. I don't.

17 Q. You wouldn't be told you couldn't lean your back against  
18 the wall?

19 A. I never told the inmates that.

20 Q. Okay. Now at night you indicated that if the guards  
21 couldn't see PFC Manning clearly, meaning his head or whatnot, they  
22 would do their best not to wake him up, but they would have to wake  
23 him up in order to check on him, correct?

1       A.    That is correct, sir.

2       Q.    And whenever PFC Manning was outside of his cell, because  
3 he was MAX, you would lock down the facility?

4       A.    All MAXs, yes, sir.  In that case, yes.

5       Q.    And when he was taken to anyplace he had to be in full  
6 restraints?

7       A.    That's correct, sir.

8       Q.    When he was on his one hour of recreation call were all the  
9 restraints from him at that point?

10      A.    They were, sir.  Again, seeing that he was that problem  
11 detainee, you know, he's in custody for a long time -- obviously nine  
12 months or even now it's a very long time for somebody to be in  
13 pretrial confinement.  So when you look at behavior, you look at  
14 certain things that you could afford them, you know, that's -- that's  
15 not an issue, you know.  He's in an enclosed area.  There are two  
16 guards there.  So, you know, obviously he cannot do pull ups on a  
17 static machine with, you know, restraints.  So that's not -- that's  
18 something that we say, hey, remove all restraints.  Let them get the  
19 best out of that one hour a day that he can.

20      Q.    Now would you ever have a detainee go on his rec call and  
21 then keep him in full restraints?

22      A.    No, sir.  I mean, again, it's either they're inside -- but,  
23 again, it'll be two guards in there.  If it's outside and it's an



1 enclosed area, remove them -- I remove restraints.

2 Q. Would you see any point -- well, how about if you had him  
3 on 20 minutes of Sunshine Call? Let's say disruptive detainee or for  
4 whatever reason you've taken the one hour away and you put him on 20  
5 minutes. You bring them outside, would you keep them in full  
6 restraints for his 20 minutes?

7 A. Probably not, sir.

8 Q. And why not?

9 A. I mean, again, if -- unless this is a type of prisoner  
10 that's assaulting, stabbing, that kind of thing, then he probably  
11 wouldn't even get that Sunshine Call. But, me personally, they're  
12 outside and enclosed in an area that's secured, I -- I wouldn't keep  
13 the restraints on unless, like I said, that is one of those prisoners  
14 that even with staff there's caution that needs to be taken.

15 Q. And what about on the indoor area if -- if they only got 20  
16 minutes for the indoor rec area that you had, would you take the  
17 restraints off with the exception of the handcuffs and leave the  
18 handcuffs on them?

19 A. No, sir. Again, I would give them the full hour. And in  
20 his case I specifically told them if you ask for more time, that's  
21 not an issue. So he -- but, no, I wouldn't leave the restraints on  
22 'cause, again, between the static pull up machine and dips and the  
23 other equipment we had in there, it just doesn't make sense. How's

1 he supposed to use it?

2 Q. Right.

3 A. Now if he elects not to use it; that's one thing. But, no,

4 I wouldn't keep the restraints on.

5 Q. Okay. All right, thank you. Now PFC Manning was

6 authorized noncontact visits, correct?

7 A. He was authorized what kind of visits?

8 Q. Noncontact visits.

9 A. Right.

10 Q. And my understanding is that this was on Saturdays and

11 Sundays between 1200 and 1500 hours?

12 A. And on holidays as well, sir, yes.

13 Q. Okay. And during these visits, he would have to be in his

14 hand and leg restraints though, correct?

15 A. That's correct, sir.

16 Q. And that was because he was MAX and he was outside of his

17 cell?

18 A. That's right, sir.

19 Q. And my understanding of having been there the observation -

20 - the noncontact booth was about 4 by 6 with a glass partition in

21 between it?

22 A. That's right, sir.

23 Q. And when you were the brig OIC was his communications still

1 being recorded to your knowledge?

2 A. Yes, sir, they briefed me that that's something that they  
3 wanted continued. And immediately I asked for clarification because  
4 I made it very clear that there is going to be no mix up with a  
5 personal visit and attorney's visit. So I kind of took the extra  
6 step to make sure on which booth was monitored so that there wasn't  
7 any problems or anything were maybe he had a visit with you and then  
8 next thing you know it's being recorded. So that's -- when they told  
9 me about that, I made sure I asked about that.

10 Q. Okay. And when he was in with just a family member of a  
11 visitor, was your requirement to keep the door slightly ajar have a  
12 brig staff member there?

13 A. That's standard, sir. In all facilities that I've worked  
14 in they never closed the door all the way where the guard -- there's  
15 no visibility. Now that's -- but that just the standard then.

16 Q. Okay. So that continued because it's standard?

17 A. Right.

18 Q. And because of his status he was not permitted any work  
19 details or work duty, right?

20 A. According to SECNAV MAX custody detainees do not get  
21 assigned a job in the facility, sir.

22 Q. Let's talk about then now POI, okay?

23 A. Okay.

1 Q. My understanding was because he was on POI, he needed to be  
2 checked on or some notation on him every five minutes, is that  
3 correct?

4 A. That's correct, sir.

5 Q. And if the guards did, in fact, come out to PFC Manning to  
6 say; PFC Manning, you okay, is everything fine, under the brig rules  
7 PFC Manning would have to respond?

8 A. I mean anybody -- yes, if a prisoner is spoken to then,  
9 yes, they are required to address the staff. Yes, that's all inmates  
10 though.

11 Q. Right. And in that instance he would say -- when asked the  
12 question, he would respond, yes, and then the rank of whoever asking  
13 him?

14 A. Yes, sir.

15 Q. Was he -- he was -- at that point still required to eat all  
16 of his meals in his cell still?

17 A. All MAX detainees eat in their cells for every meal, sir.  
18 That's correct.

19 Q. And because he was POI was he given -- he was only given a  
20 spoon, I imagine, right?

21 A. That's correct, sir.

22 Q. And from your memory was that a -- a plastic spoon or a  
23 metal spoon?

1           A.    I'm pretty sure it was plastic, sir.

2           Q.    Okay. And you said that there -- where he was at he was  
3 moved occasionally. Sometimes he was in one cell and then another  
4 time he might be moved to another cell that's close by?

5           A.    Yeah, we do that with everybody. But, yes.

6           Q.    And wherever he was though was always within sight of the  
7 observation booth, right?

8           A.    That's correct, sir.

9           Q.    And why would he be moved from on cell to another?

10          A.    I mean, once -- as you -- you probably don't know, but  
11 periodically we go through the cells -- we just look for anything  
12 that's breaking down or any repairs that need to be made. So it  
13 could be that. And then just to get them used to being in a  
14 different cell, sir. So, again, for maintenance issues and  
15 periodically we just move them around.

16          Q.    And we heard testimony that detainees were not placed next  
17 to PFC Manning for two reasons; one, national security concern, and  
18 then -- and then, two, it was -- it just wasn't done because the one  
19 side he had his equipment and the other side they just left blank.

20          A.    Nah, there were periods of time when somebody was housed  
21 next to him. Again, you know, when we have -- in special quarters,  
22 we have, you know, 12 cells on each side, 6 in the middle. So,  
23 again, depending on what somebody's status is or custody, yes,

1 typically we try to create distance, but if we're at full capacity  
2 then we don't have a choice. But it wasn't on a regular occurrence  
3 but there were times when somebody was housed next to him briefly.  
4 And, again, because we understand that we control when those cells  
5 open and close, you know, if that's the case and we're at full  
6 capacity or for some reasons we try to keep all the POIs on one side  
7 for easy accountability, then we'll do that.

8 Q. From your memory how many times was there somebody in a  
9 cell either to the left or to the right of PFC Manning?

10 A. Sir, to be honest, not very often. We weren't at full  
11 capacity very often so that's not something where I could say, you  
12 know, for four months somebody lived next to him though. But it  
13 wasn't -- wasn't frequent though.

14 Q. And we've heard testimony that's kind of conflicting. I  
15 just want to get your take on this. Some that said that detainees  
16 could talk in a low conversational tone to any detainee on the row as  
17 long as it was low conversational tone and other testimony where  
18 unless the detainee was to your immediate right or left you could not  
19 talk to them. What was it from your prospective?

20 A. Well -- I mean, they are allowed to talk in a low  
21 conversational tone, and it would make sense if they, say somebody  
22 that's close to you -- now somebody that's five, six cells down,  
23 obviously you'd have to speak very loud for them to hear. And we

1 just don't -- anything that disrupts good order, discipline, or the  
2 peace down there, we don't allow it. So I can see why somebody said  
3 they probably weren't allowed to talk unless they were near to them.  
4 Because, again, with all the cells down -- and not only that -- with  
5 the heat and AC being on, they would really have to talk loud for  
6 somebody like five or six cells down to hear them. So.

7 Q. So if you saw a -- if a -- one of your lower brig staff is  
8 saying, ma'am, I make it to where they have to be on the left or  
9 right of them because anything else they have to talk too loud, would  
10 that be surprising to you?

11 A. Not really, 'cause, again, if somebody's on the left or  
12 right but then it's an empty cell or two cells and then there's  
13 somebody else, again, be -- just because I know how loud it can be in  
14 there at times, they would have to speak really, really loud. But  
15 I've never been told through none of this -- I wasn't aware that they  
16 say, hey, you can only talk to the person to the left or right of  
17 you. But, again, for them to want to speak to other detainees, they  
18 would probably have to speak really, really loud.

19 Q. Okay. Now also because of being on POI, PFC Manning was  
20 not given a standard mattress, correct?

21 A. Right.

22 Q. And he wasn't given a pillow?

23 A. Right. It was all-in-one.

1 Q. And he also wasn't given any sheets. He was just given --  
2 A. The blankets.  
3 Q. -- the two POI blankets?  
4 A. That's correct, sir.  
5 Q. He was also because of being POI not permitted to have  
6 personal items in his cell?  
7 A. That's correct, sir.  
8 Q. And was it still the case where he's only permitted to have  
9 one book or one magazine at a time?  
10 A. Yes, sir. Well he could change it out if, you know -- if  
11 he said, okay, hey, I'm done with this. Can I have another one? And  
12 they would give it to him.  
13 Q. Okay. But whenever he had a book that was -- he only got  
14 one book at a time?  
15 A. That's right, sir.  
16 Q. And was it still the case that if he wasn't actively  
17 reading either the book or the magazine it would be taken from him?  
18 A. Yes, sir, if he was done, sir, yes, they would take that.  
19 Q. And why couldn't he keep a book in his cell?  
20 A. Again, sir, some POIs -- that was just our standard. We --  
21 we kind of look at what actions could we take to mitigate risk, and  
22 we kind of look at that for everybody. So, again, during the  
23 daytime, yeah, they allow one book. If they're not actively using it



1 they'll turn it back in. But we just, again, just like -- the reason  
2 why he can't have all his gear in his cell; we just try to mitigate  
3 risks, sir.

4 Q. And you had testified that for the last month you -- you  
5 allowed him to have pen and paper along with the book?

6 A. Right.

7 Q. And that was so he could take notes or do whatever he  
8 wanted to do?

9 A. Right.

10 Q. And was that the same that if he wasn't actively reading  
11 the book and using the pen and paper that that stuff would be secured  
12 from him?

13 A. Yes, sir. If he indicated he was done -- I mean, you know,  
14 he may have said, well, I'm just taking a quick break for a couple of  
15 minutes; then that's fine. But if he indicated he was done then,  
16 yes, they would take it, sir.

17 Q. And as the Brig OIC under -- for your rules, was -- let me  
18 ask you this -- actually this ways -- I'm sorry -- were detainees  
19 allowed to exercise in the cell if they were MDI?

20 A. If they're MDI but not SR or POI they would -- they'd be  
21 allowed to do calisthenics in the cell.

22 Q. And what -- was there a limitations or anything?

23 A. I mean they were told, you know, don't overexert yourself,

1 you know, don't try to do things like inverted pushups; that kind of  
2 thing, you know. So just basic running in place, let's say, or just  
3 basic pushups. So, yes, we just told them, hey, do not do any  
4 exercises that maybe you do in your barracks room where you could  
5 hurt yourself.

6 Q. Okay. And then because Manning was -- was either -- well,  
7 you tell me, either MAX or POI, which one prevented him from  
8 exercising, or was it both?

9 A. While on POI or SR they're not allowed to exercise in their  
10 cells, sir.

11 Q. So if you take POI/SR away and he's just MAX could you  
12 exercise in your cell?

13 A. I can't remember what my handling letters were for just MAX  
14 without those conditions, sir, to be honest with you.

15 Q. Okay. But in Manning's case at least because we know he's  
16 POI, that's what prevented him from being exer --

17 A. Yes, sir.

18 Q. -- being able to exercise?

19 A. Yes, sir.

20 Q. And then at least after -- I guess prior to 2 March before  
21 his underwear was taken from him, what would Manning have to be in at  
22 taps basically? What was he allowed to have on him?

23 A. I believe they allowed him to have his underwear prior to

1 taps. Yeah, he had to turn in his -- the detainee uniform or sweats,  
2 whatever he had on during the day.

3 Q. So he would have to strip down to his underwear?

4 A. Right. And he had his two blankets.

5 Q. Okay. And then after 2 March, but before receiving the  
6 smock on 7 March, he would have to strip down and sleep naked.

7 A. With the two blankets, yes, sir.

8 Q. And then, I guess, on 7 March, he would have to strip down  
9 and then he would put on the suicide smock?

10 A. Well, he would put it on and then remove his underwear,  
11 right.

12 Q. Okay. At the end of the night he was in the suicide smock  
13 and nothing else?

14 A. And the two blankets, sir.

15 Q. And because of being in POI he was not permitted to have  
16 hygiene items in his cell?

17 A. Right. It was given to him -- like I said, close to  
18 reveille they'll just put it on the feed tray. And he would use it  
19 and return it.

20 Q. And he was, I guess, permitted for a razor -- they would  
21 give him a razor in the morning to use?

22 A. Yes, he was allowed to shave, sir.

23 Q. And what would happen once he was given the razor?

1           A.    He would shave -- I imagine they watched him. And he would  
2 turn it -- he would turn it back in for accountability because they  
3 count how many razors are given out and received.

4           Q.    Okay, so someone would watch him at all times when he had  
5 the razor?

6           A.    Well, I mean, I wasn't there, sir. But I would imagine  
7 that that's what took place.

8           Q.    And then with toilet paper; he had to ask for toilet paper  
9 still?

10          A.    All POI and SR detainees, sir, yes, upon request.

11          Q.    Was PFC Manning permitted to have shoes in his cell?

12          A.    I believe he just had his socks and flip flops, sir, I  
13 think.

14          WIT: Now can we take a break, sir?

15          CDC[MR. COOMBS]:    Yeah, certainly.

16          WIT: Is that fine?

17          CDC[MR. COOMBS]:    Certainly.

18          MJ:   All right. How long would you like?

19          WIT: Just 10 minutes, ma'am, if that's okay.

20          CDC[MR. COOMBS]:    That's fine.

21          MJ:   All right. That's fine. Court is in recess until 10  
22 minutes after 3 or 1500.

23   **[The Article 39(a) session recessed at 1500, 7 December 2012.]**

1 [The Article 39(a) session was called to order at 1512, 7 December  
2 2012.]

3 MJ: This Article 39(a) session is called to order. Let the  
4 record reflect all parties present when the court last recessed are  
5 again present in court. The witness is on the witness chair. Mr.  
6 Coombs?

7 CDC[MR. COOMBS]: Chief Barnes, again, I remind you you're  
8 under oath.

9 WIT: Yes, sir.

10 [Examination of the witness continued.]

11 Q. Now, Chief, I want to talk about the roles of the doctors,  
12 okay?

13 A. Okay.

14 Q. The main doctor that you had seeing PFC Manning during your  
15 command was Colonel Malone, correct?

16 A. Yes, sir.

17 Q. And there were a couple other doctors as well though, is  
18 that right?

19 A. Right.

20 Q. There was a Lieutenant Colonel Russell who saw PFC Manning  
21 in the April timeframe towards the end of PFC Manning's time at  
22 Quantico, correct?

23 A. That's correct, sir.

1 Q. And there was also a Doctor -- is it Yao [pronounced] or Ya  
2 [pronounced]?

3 A. Doctor Yao, sir.

4 Q. And what was Doctor Yao's role?

5 A. She came in towards the end, sir. I believe Doctor Malone  
6 requested her services. I think she was a forensic psychologist to  
7 come in and address the behavior issues that we seeing in his cell,  
8 sir.

9 CDC[MR. COOMBS]: I'm showing you what's been marked Appellate  
10 Exhibit 441G [handing the document to the witness].

11 WIT: Okay [looking through the document].

12 Q. And this is an email basically to Master Sergeant Papakie,  
13 Gunny Sergeant Blenis and Gunny Sergeant Fuller, correct?

14 A. [Looking at the document] Yes -- yes, sir.

15 Q. And it's basically talking about the fact that Doctor Yao  
16 was going to come and start seeing Manning -- PFC Manning as well?

17 A. Say that again, sir?

18 Q. It was an email where you're informing your staff that  
19 Doctor Yao would be coming to see PFC Manning in addition to Colonel  
20 Malone?

21 A. Right. And Lieutenant Colonel Russell -- that's right.

22 Q. And apparently from the email, she was going to working  
23 with him on personality issues?

1 A. That's correct, sir.

2 Q. And attempting to build a relationship with him?

3 A. Say that again, sir.

4 Q. And attempting to build a relationship with him?

5 A. I mean I would -- I would gather that, sir -- and working  
6 closely with him.

7 Q. Okay. And then there was also a Doctor Margaret Louie. Do  
8 you recall her?

9 A. Yes, sir.

10 Q. And what was she -- her role?

11 A. She was one of the providers that was stationed on  
12 Quantico. And, again, as a psychologist, they asked her to come in  
13 from time to time to kind of help us out to make light of some of the  
14 things we were seeing. So towards the end -- in the late half, she  
15 was asked to come by.

16 CDC[MR. COOMBS]: I'm retrieving from the witness Appellate  
17 Exhibit 441G [retrieving the document from the witness]. I'm handing  
18 the witness Appellate Exhibit 441H [handing the document to the  
19 witness].

20 WIT: Okay [looking at the document].

21 Q. Now this is an email where Colonel Oltman is talking about  
22 -- well actually it's an email from you to Colonel Oltman, and then  
23 Colonel Oltman responds. But it's talking about the fact that Gunny

1 Sergeant Blenis has contacted Doctor Louie to debrief her on PFC  
2 Manning's behavior, and then she agrees there wasn't anything there  
3 that was due to any psychiatric reasons. Is that correct?

4 A. That's correct, sir.

5 Q. Now there was also a -- a Doctor Bui, is that right?

6 A. Yes, Commander Bui, sir, yeah.

7 Q. And who was Commander Bui?

8 A. He was a medical officer assigned to OCS at the time, sir.

9 Q. And how often would he come down and see PFC Manning?

10 A. I mean, he would make the brig runs in general once a week  
11 or more as needed. So it wasn't a set thing, okay, where he only  
12 comes on that day. He comes one day -- once a week. But if we  
13 needed him more than that, he would come over, sir.

14 Q. And Doctor Bui; would be then the medical officer, is that  
15 right?

16 A. That's assigned to the brig -- yes, sir.

17 CDC[MR. COOMBS]: All right, I'm retrieving from the witness  
18 Appellate Exhibit 441H [retrieving the document from the witness].  
19 I'm handing the witness 441I [handing the exhibit to the witness].

20 Q. And you said that Doctor Bui would come once a week on  
21 average, I guess?

22 A. Nah, usually it would be a little bit more than that. But  
23 the standard is just for any MO; once a week, again, unless we ask



1    them, you know, for different reasons to come over more frequently,  
2    sir.

3            Q.    And with Doctor Bui -- you had testified on direct that  
4    there was the medical officer and then there -- there was a corps --  
5            A.    A corpsman --  
6            Q.    -- a corpsman?  
7            A.    -- right.

8            Q.    And is there a difference between the two -- of a medical  
9    officer and a corpsman?

10          A.    Yes, sir. Usually the corpsman -- obviously they're in the  
11    pay grades of like E2 to maybe E4, and they come over to do sick call  
12    and medication call. So inmates were taken -- they would come over  
13    to make sure that in the morning and afternoon they would receive  
14    med's.

15          Q.    And with the corpsman it -- the corpsman -- 'cause it's E2  
16    to E4, a corpsman is just giving med's that a doctor has prescribed,  
17    right?

18          A.    Right. And they ----

19          Q.    They not prescribing anything on their own?

20          A.    No, they don't write prescriptions, sir. No.

21          Q.    So they're basically your -- like doctor's assistant or  
22    something like that, would that be right?

23          A.    Yes. And to finish answering your question, Commander Bui,

1 of course, instead of commander, he's the medical officer.

2 Q. Okay. And I imagine with the -- Doctor Bui, he was just  
3 there to -- for physical checkups on PFC Manning, not mental  
4 checkups, right?

5 A. No, sir. He would make the rounds -- check on all  
6 prisoners. However, we could call him the in event let's say a  
7 prisoner's having a breakdown or something like that -- we may feel  
8 that they're suicidal. He can still come over. That's one of the  
9 arrangements we made. And the other doc's, I know, were good with  
10 that arrangement. Now anything obviously beyond his scope, he would  
11 let us know, hey, this is beyond my scope; we need to get somebody  
12 else in. But just for a quick getting somebody in the facility  
13 quickly to help us out, yes, he would do that.

14 Q. Okay. And I imagine because of -- of the fact that they're  
15 doctors, you gave weight to each of their opinions if it impacted the  
16 decision on MAX or POI for PFC Manning, correct?

17 A. Yes. I mean -- but, again, you know, that's only -- you  
18 know, we have that rapport. And, yes, I gave weight to things that  
19 they may say to me or ask me about -- yeah.

20 Q. Now I want to talk now briefly about each of the doctors.  
21 We'll start off with Doctor Bui and the email that you have in front  
22 of you. This -- on 9 February you sent an email -- or actually you  
23 receive an email from Doctor Bui, correct?

1           A.    [Looking at the document] I did, sir.

2           Q.    [Reading from a document] And he states that Manning has  
3   been here for many months now, and it's hard on him in getting on  
4   hour of outside his cell. Is that right?

5           A.    Yes, sir.

6           Q.    And he said that it would be therapeutically beneficial for  
7   PFC Manning to have more time outside of his cell?

8           A.    Yes, sir.

9           Q.    [Reading from a document] And your response to him was that  
10  "He has been briefed by me and my predecessor on occasions too  
11  numerous to count on asking for extra rec call."

12          A.    Well, I said a lot more, but that's part of what I said,  
13  sir, yes.

14          Q.    Okay. And did you mean by that that you've heard this  
15  request from the doctors before or you briefed this to PFC Manning on  
16  numerous times?

17          A.    No, it just means what it says; that I briefed him, you  
18  know, numerous occasions. Because that's my way of letting him know,  
19  hey, look, remember we had this talk when I first took over. But I  
20  want you to know that nothing has changed. So that was just me  
21  letting him know, you know, hey, if you want extra rec call or  
22  something else, just let me know. So that wasn't because all the  
23  providers had said, hey, you know, he needs to be out of his cell

1 more.

2 Q. Now did you -- did you give PFC Manning more rec time  
3 outside of his cell?

4 A. I offered it to him. He -- he said, no, he was good. I  
5 mean at times he would finish less than hour from what I was briefed.  
6 So I just told him, hey, if you want it, just let me know.

7 Q. Okay. I want to make sure I understand your testimony; you  
8 offered him more time outside of his cell --

9 A. For recreation call.

10 Q. -- and PFC Manning told you -- for recreation call --

11 A. [Responded in the affirmative.]

12 Q. -- and PFC Manning told you no?

13 A. Well he just said -- I said, hey, if you want extra rec  
14 call or something just let me know. He said, okay, ma'am.

15 Q. All right, so you didn't -- you just told him if he wanted  
16 it to let you know. But you didn't say I'm giving you an extra hour  
17 and he said, no, I don't want it?

18 A. No, I just offered it him. I said it's up to you. If you  
19 want it, let me know.

20 Q. Now you do point out that PFC Manning's correspondence time  
21 was increased from one hour to two hours, correct?

22 A. Right. But that was before my watch. And I continued  
23 that.

1 Q. And -- and to be clear, that correspondence time takes  
2 place in the cell though?

3 A. Yes, in the evening, sir.

4 Q. So at least from Doctor Bui's request, PFC Manning was  
5 never given extra time outside of his cell?

6 A. Say that again, sir?

7 Q. Based upon Doctor Bui's request of you --

8 A. [Responded in the affirmative.]

9 Q. -- you did not give PFC Manning any extra time outside of  
10 his cell?

11 A. I mean -- no I did not. But it doesn't mean I didn't offer  
12 it to him. Again, sir, I offered it to him; he didn't take advantage  
13 of it.

14 Q. And when you forwarded this to Colonel Oltman, or at least  
15 cc'ed him on this, Colonel Oltman responded with who is this guy and  
16 why is he making this recommendation?

17 A. That's correct.

18 Q. And your response was he's a doc' from OCS who comes over  
19 to support, and that's why I responded.

20 A. Yes, sir.

21 Q. And what did you mean by that?

22 A. I mean, he come over to the brig -- again, he makes the  
23 rounds to see the prisoners. He -- if other appointments needed to

1 be may, let's say off Quantico, he would make those appointments for  
2 them. So I just said, you know, he's a doc' from OCS -- just  
3 identifying who he is -- and that he comes over to support us.  
4 "Support us" meaning, hey, look, aside from making the rounds with  
5 the inmates, he lets us know, hey, look, I'm going -- you know, this  
6 prisoner needs appointments at Belvoir. I'm going to set it up. I'm  
7 going to give you the dates do you let the unit know, hey, this is  
8 what day and time, you know, you need to be here so he's taking all  
9 his appointments on time; things like that.

10 Q. And the last part -- and that's why -- that's why I  
11 responded did you mean anything by that?

12 A. [Looking at the document] Well, I just mean -- that's why I  
13 responded to his concern about him having more time out of his cell.  
14 I mean, my intent when I emailed Colonel Oltman was to let him know -  
15 - of course, identify who Commander Bui was, but to let him know -- I  
16 responded because of his -- you know, in my email -- if you read the  
17 whole thing -- it says I appreciate the concerns [reading from the  
18 document]. So my thing was I responded to him obviously fairly  
19 quickly to let him know, hey, sir, I appreciate the concern, but --  
20 and then once I sent that email, I believe the next time we saw each  
21 other he said, hey, good, that makes sense. I just thought I'd ask.  
22 But everything's covered. And, again, he himself has walked around  
23 and asked him, and he said he was good to go.

1 Q. Who said that makes sense?

2 A. Commander Bui 'cause -- in -- in -- when I answered his  
3 email.

4 Q. All right. So did Commander Bui then, I guess, no longer  
5 giving him additional time outside of his cell?

6 A. I don't recall, to be honest with you, sir. I doubt it  
7 though. I mean it was just one of those things he had a concern; I  
8 answered it. He understood -- he said it makes sense to him. And he  
9 was -- he was good with that, sir.

10 Q. Okay. And then Lieutenant Colonel Russell, as we know, was  
11 a doctor that came to see PFC Manning at the beginning of April and  
12 towards the middle of April, correct, of 2011?

13 A. Roughly in that timeframe, yes.

14 Q. And I want to talk about an email that you sent to him on 4  
15 April -- actually that you received from him on 4 April and then  
16 responded to.

17 CDC[MR. COOMBS]: I'm handing -- actually I'm retrieving from  
18 the witness Appellate Exhibit 441I [retrieving the document from the  
19 witness], and handing the witness Appellate Exhibit 441J [handing the  
20 document to the witness].

21 WIT: Okay.

22 Q. Now on 4 April 2011, you received an evaluation from  
23 Lieutenant Colonel Russell regarding PFC Manning, correct?

1       A.   [Looking at the document] On 4 April you said?

2       Q.   Yeah.

3       A.   Probably so, sir.

4       Q.   And the next day you sent him an email back that said --

5 and you can read along with me -- [reading from the document] hey,

6 sir, I thought about something and wanted to run it by you, the

7 defense side may try to pick apart your eval because you lined out

8 one and --

9       A.   What page?

10      Q.   -- circled another ----

11      A.   Excuse me, sir, what page are you on? We've got like four

12 pages. What pages, sir -- what page are you on, sir?

13      Q.   Your -- I guess your response to him. Do you see ----

14      A.   [Looking at the document] Okay, you're on Page 2. Okay.

15      Q.   All right, you can follow along again.

16      A.   Okay.

17      Q.   [Reading from the document] "Hey, sir, I thought about

18 something and wanted to run it by you. The defense side may try to

19 pick apart your eval because you lined out one and circled another

20 answer on the evaluation. It is a well written evaluation, of

21 course, but I have experience testifying and this is something that

22 they will put a lot of weight into to question what you really meant.

23 You do not have to change it, but these are tactics defense attorneys



1 use especially when they are struggling to present a good case." Do

2 you see where you write that?

3 A. Yes, sir.

4 Q. So you expressed concern about, I guess, a defense attorney  
5 picking apart Lieutenant Colonel Russell's evaluation?

6 A. Well the concern wasn't that so much, it's just for clarity  
7 when something's crossed out I just want to make sure what exactly  
8 you mean.

9 Q. And you suggested that he might think about changing it?

10 A. I suggested that? Let me go back [looking through the  
11 document]. [Reading from the document] Nah, I said you do not have  
12 to change it.

13 Q. But?

14 A. [Reading from the document] But these are tactics defense  
15 attorneys use especially when they're struggling to pro -- to present  
16 a good case.

17 Q. And based upon that he does, in fact, change his form,  
18 correct?

19 A. Well he changed it, but he made it known that the original  
20 -- he cannot change the date because I mentioned the date on the  
21 eval' --

22 Q. [Responding in the affirmative.]

23 A. -- but he did -- let me read his response in a minute

1 [looking through the document].

2 Q. Sure.

3 [Pause]

4 A. [Reading from the document] My apologizes for making this

5 infinitely more difficult. I will rewrite without changes and

6 resend. 'Cause basically he's --

7 Q. Right, so he --

8 A. -- say ----

9 Q. -- changes the form based upon your discussion with him?

10 A. Certainly. But he didn't have to, sir.

11 Q. I know. And then when he sends you the new write-up, it's

12 dated 6 April and not the 1st like the original evaluation, correct?

13 A. [Looking through the document] Let me look through this

14 email traffic. [Reading from the document] I said, okay, sir, don't

15 kill me, but you dated the eval for the 6th instead of the 1st of

16 April. So, yes, we like the eval's date it occurred. So, again, he

17 made a mistake.

18 Q. And he tells you he can't backdate the eval because it's a

19 medical evaluation?

20 A. Right.

21 Q. And that's why the one we have in the record now is 6

22 April?

23 A. Well I'm sure that's the one he has there -- maybe.

1 Q. Okay.

2 [Pause]

3 CDC[MR. COOMBS]: I'm showing the witness from Enclosure 21 of  
4 Appellate Exhibit 259, Page 31 [handing the document to the witness].

5 WIT: Okay.

6 Q. Do you see the date of Lieutenant Colonel Russell's report?

7 A. [Looking at the document] Yep, he wrote the 6th.

8 Q. All right, so that's why you have the 6th April instead of  
9 the 1st of April when he actually saw PFC Manning?

10 A. Okay.

11 Q. Is that correct?

12 A. I would guess so, yes.

13 Q. All right, so now let's -- let's talk about Captain Louie  
14 for a second.

15 A. Okay.

16 Q. Now she was brought in towards the end of PFC Manning's  
17 confinement, correct?

18 MJ: A Navy captain or Army Captain?

19 CDC[MR. COOMBS]: A Navy captain, ma'am.

20 Q. Is that correct?

21 A. Yes, sir, sometime in the later half, yes.

22 Q. And how did she get brought in to your knowledge?

23 A. Basically -- I know Colonel Choike had a meeting. And he

1 was saying, hey, look, certainly there has to be other services we  
2 can get to help support him. Of course, you know, there've been  
3 meetings with him -- I guess Colonel Malone -- and just discussing  
4 some things that they think could assist them. One of the problems  
5 with a pretrial facility that unlike Level 1, 2 and 3 facilities, we  
6 did not have a social worker on board 24 -- all the time as other  
7 facilities had. So basically a meeting was held -- and I don't  
8 recall exactly when, just saying, hey, look, we don't have a social  
9 worker, we know that, but can we -- are there any psychologist or  
10 anybody else available that can lend some services to PFC Manning.

11 Q. Okay, so this was basically in response to what Colonel  
12 Choike was trying to push?

13 A. Yes, getting additional services, yes, sir.

14 Q. And am I correct, based upon my understanding, Gunny  
15 Sergeant Blenis was required to call her after every doctor eval in  
16 order to basically double-check with her on PFC Manning's mental  
17 health issues?

18 A. Well I won't say to call it a double-check on them.  
19 Obviously they're trained in two different fields. But it was just  
20 one of those things -- if we saw that behavioral stuff and it wasn't  
21 on, for example, on the day that, you know, Doctor Malone or Doctor  
22 Russell would come down, to just consult with her. But Colonel  
23 Choike did want that to be on a regular basis especially for the

1 weekly reviews -- so just to keep her informed. She had a case load  
2 so she wasn't able to come to the brig, you know, very often.

3 Q. Yeah. And my understanding is that she would be called and  
4 Gunny Sergeant Blenis would share with her the facts, and then get  
5 whatever feedback from her, and then that would be included in -- in  
6 your reports. Is that right?

7 A. Right. Well the C&A deliberations, sir, yes. She did try  
8 to come a couple times, but, again, she still had to maintain her  
9 patient load. So that's why the phone calls were made, sir.

10 CDC[MR. COOMBS]: All right. I'm retrieving from the witness  
11 again Appellate Exhibit 441J [retrieving the document from the  
12 witness] and handing back to you Appellate Exhibit 441G [handing the  
13 document to the witness].

14 WIT: Okay.

15 Q. Now the other doc' that you had coming was a Doctor Yao, is  
16 that right?

17 A. Right.

18 Q. And how many times did Doctor Yao see PFC Manning?

19 A. No, sir, it wasn't very much. I think it may have been one  
20 to -- like two to three times or something like that. But he was  
21 transferred shortly thereafter -- after she started coming.

22 Q. And who directed that Doctor Yao see PFC Manning?

23 A. Colonel Malone brought it up, sir. He says -- or he thinks

1 she'll be good to address some of the behavior things. He suggested  
2 that. And the chain was onboard with that and didn't have an issue.

3 Q. All right, so this is Colonel Malone basically trying to  
4 address some of the concerns that you, the command, raised with him?

5 A. Right.

6 Q. The same concerns that he said, from a psychiatric  
7 standpoint, he didn't see as being very important?

8 A. Well, from a psychiatric standpoint, nothing that raises  
9 concern or alarm, right.

10 Q. Right. And so he wanted to bring in another doctor to help  
11 work with PFC Manning to ensure that these behavioral issues you were  
12 noting wouldn't continue or his behavior would adjust?

13 A. Right.

14 Q. And you stated that it would be a while before you could  
15 expect to see any results, and that would all kind of depend on how  
16 quickly Doctor Yao and PFC Manning established a bond?

17 A. Right.

18 Q. Now did Doctor Yao tell you or give you any reports after  
19 her two to three times with PFC Manning?

20 A. To be honest, sir, the first day she came, I wasn't there,  
21 but I knew she was coming. And I -- I had to leave. I told Master  
22 Sergeant Papakie probably spoke with her. But I don't recall seeing  
23 any write-ups from her. I did get to meet her one time -- once. And

1 I kind of talked to her briefly. And, you know, I knew she was  
2 coming from Maryland. I said, hey, I really appreciate it; that kind  
3 of thing. But it wasn't -- I just kind of gave her a quick overview  
4 of things. And she was good with that.

5 Q. Okay. So never any sort of report to you from her?

6 A. I don't recall getting any, sir.

7 Q. All right. And then let's now talk about Colonel Malone.

8 A. [Responded in the affirmative.]

9 Q. He was, as you said, PFC Manning's primary caregiver during  
10 the time that you were the commander, correct?

11 A. That's right, sir.

12 Q. And when you came to Quantico, you reviewed all of Doctor  
13 Hocter's evaluations I imagine?

14 A. Yes, I went through them, sir.

15 Q. And you didn't like the fact that they were basically one  
16 line assessments, is that correct?

17 A. That's correct, sir.

18 Q. And at that point you had a long talk with Colonel Malone  
19 about the fact you didn't like the one line assessments?

20 A. Right. I just kind of said, hey, can we add some more  
21 meat? He says he agrees. It's definitely good. And he came up with  
22 a draft. He asked me to look at it. I told him I think it was  
23 great. And that's when we started using it, sir.

1 Q. And you also explained to him that you didn't -- in  
2 addition to the one line assessments, you did not like forms that  
3 were being filled out where the doctors were asking that PFC Manning  
4 to be taken off of MAX or be taken off of POI?

5 A. Well I just -- I don't recall saying that, but I know with  
6 all the providers I told them -- I said, your job is not to tell me  
7 what custody a prisoner should be in or what status -- POI,  
8 protective custody, or anything like that. Your job is to kind of  
9 share your expertise in what you're seeing with him on the  
10 psychiatric part and just kind of give me some kind of background, of  
11 course, without violating HIPAA. So things like the level of risk;  
12 whether it's low, medium or high, you know, his affect, mood, you  
13 know, things about how he's -- how his -- maybe this order's going or  
14 if it's improving or -- that kind of thing.

15 CDC[MR. COOMBS]: Okay. I've retrieving from the witness  
16 Appellate Exhibit 441G [retrieving the document from the witness],  
17 handing the witness Appellate Exhibit 441K [handing the document to  
18 the witness].  
19 [The civilian defense counsel handed a copy of the documents to the  
20 military judge.]

21 WIT: Okay.

22 MJ: Thank you.

23 Q. Now you see in this email where you explain that you didn't



1 want one line forms being filled out where they're asking basically  
2 to take Manning off of MAX or POI?

3 A. Right.

4 Q. And what you say basically is you didn't think it was the  
5 job of the psychiatrist to be making those recommendations to you,  
6 the Brig Commander?

7 A. Right, to make decisions on custody or status.

8 Q. And what you wanted basically -- you know, obviously as a  
9 brig commander, you believe that a psychiatrist could not order or  
10 direct a detainee off of POI, correct?

11 A. No. But they can off of SR. But as far as POI, they can  
12 make recommendations say -- like he did, hey, from a psychiatric  
13 standpoint there's no need for separation or removal from general  
14 population, which is some of the things he wrote. So, yes, they're  
15 well in line to say things like that.

16 Q. Right, but you were telling them, look, it's not your place  
17 to say take them off of POI or he doesn't have to be on MAX. You  
18 just tell me from your medical opinion X, Y and Z, and you as the  
19 correctional specialist will determine whether or not he's on MAX or  
20 POI?

21 A. Based on what they told me, yeah.

22 Q. And as the commander that's what you were telling Colonel  
23 Malone?

1           A.    Right.

2           Q.    And you told Colonel Malone that you wanted to take to him

3 both before and after each of his visits, is that correct?

4           A.    Yes, sir.

5           Q.    And you did, in fact, talk to him both before and after his

6 visits?

7           A.    Yes, when I was at work, sir, yes, that occurred.

8           Q.    And, again, that was because if they come into your brig --

9 whoever comes into your brig, if you're there, they need to check in

10 with you as the CO?

11          A.    No, it's not that at all, sir. I mean, obviously I have

12 respect for their rank and their -- their services. So it's not a

13 thing of well, let me tell her I'm in the facility. No. It's to

14 build trust. It's to build a good working relationship. And that's

15 in an effort for me to learn as well, because, again, I'm not trained

16 in psychiatry just like he's not trained in corrections. So when we

17 both talk and we -- we share our words and the things we see and the

18 things we look at, it makes for a little bit more productive

19 relationship. So, no, they wouldn't check in with me. I think

20 that's rude. But it's just one of those things where as the new

21 person coming in, I need to know who are the religious laypeople, who

22 are the MFLCs, who are the TBI specialists, who were the

23 psychiatrists that comes in to see people? And I have that

1 relationship with everybody, not just the psychiatrist.

2 Q. All right. Well you told Colonel Malone that you wanted to  
3 get a detailed evaluation?

4 A. Right.

5 Q. And we heard testimony from Colonel Malone that the two of  
6 you would, in fact, talk about his visits after he was done seeing  
7 PFC Manning, correct?

8 A. Yes, we would talk, sir.

9 Q. And so you would talk about his recommendations to you?

10 A. He would, sir.

11 Q. And you would ask questions in order for him to explain why  
12 he's making certain recommendations?

13 A. Yeah. But also -- I'd ask questions on -- well, sir, I  
14 know you've seen this, but here's what we see. So a lot of it is  
15 just -- again, me wanting to learn more and just kind of figure out,  
16 you know -- I know you have one world that you -- you're working in.  
17 But because I have to consider your world, my world, and other  
18 issues, I kind of need help here because it's -- it's kind of -- some  
19 of this is not jiving with me.

20 Q. Okay. And I believe his words were after your  
21 conversations you got to the point where you would just agree to  
22 disagree. Would you agree with that characterization?

23 A. I don't recall that. I mean -- I know at times, you know,

1 I would say, hey, people don't always agree. And that's fine. I  
2 don't take things personal. And I don't hold grudges, you know. I  
3 can recall him kind of explaining that. But, again, you know, two  
4 different worlds, and those two worlds have to kind of connect in  
5 some why where things make sense. And a lot of my questions to him  
6 was help -- to aid in that effort.

7 Q. All right. So you don't recall getting to the point where  
8 the two of you just simply said, okay, we're going to agree to  
9 disagree?

10 A. No, sir. We had a very good relationship.

11 Q. And why do you think you had a very good relationship?

12 A. I mean for one, I was very appreciative of them coming  
13 down; whether it was directed or not. I mean, two, he would -- you  
14 know, he was -- he was always open to communication. He would answer  
15 questions. I think he liked the fact that I said, hey, sir, you  
16 know, I appreciate you coming down. I like to interact with people  
17 that are providing services to inmates. So I just think with my  
18 approach to him he understood and I think we both had the same thing,  
19 you know, all inmates -- have their best interest at heart; that kind  
20 of thing. So I just think we had some things in common, sir.

21 CDC[MR. COOMBS]: Retrieving from the witness Appellate  
22 Exhibit 441K [retrieving the document from the witness], and handing  
23 the witness Appellate Exhibit 441L [handing the document to the

1 witness].

2 Q. Now based upon just talking with Colonel Malone, you were  
3 familiar that he knew about PFC Manning's medical history in Kuwait?

4 A. Yes, 'cause one of the things I did, sir, was to let him  
5 know, hey, at any time you want to look through his book to review  
6 anything, please do. So that's something I made available to him,  
7 you know, and Doctor Russell, just so they can -- again, in that  
8 effort to kind of understand our concerns and things like that, yes,  
9 he -- he was told about that. And he, again, could have -- he was  
10 offered the opportunity to look at his book if he had questions.

11 CDC[MR. COOMBS]: I want you to hold on to that exhibit. And  
12 I'm handing you now Appellate Exhibit 441M [handing the document to  
13 the witness].

14 WIT: Okay.

15 Q. On 23 February 2011, you sent an email to Colonel Oltman  
16 expressing concern with the treatment that PFC Manning was getting  
17 from Colonel Malone, correct?

18 A. [Looking at the document] Yes.

19 Q. And the email was about PFC Manning being taken off of  
20 several medications?

21 A. And being weaned off of some, yes, sir.

22 Q. And you disagreed with Colonel Malone's decision to take  
23 PFC Manning off of Zoloft, which was an anti-depressant, correct?

1           A.   [Looking that the document] Well let me read the email in  
2 detail. I don't recall, sir.

3           Q.   Okay.

4           [Pause]

5           A.   [Reading from the document] Well in here I stated that the  
6 concern I had in regards to this was because that write-up was  
7 identical to another detainee's and I just wanted to clarify -- not  
8 to question his judgment. But, yes, with the medication I was a  
9 little uneasy. But, again, I am not a psychiatrist. So.

10          Q.   Yeah, but you express your concern to Colonel Malone about  
11 the fact that PFC Manning is being weaned off of medication, right?

12          A.   [Looking at the document] Let's see.

13          Q.   You see in the first page where you say I told Colonel  
14 Malone that I was concerned [reading from the document]? And it was  
15 about the eval's; making sure he was accurate?

16          A.   [Looking at the document] Let me take a look. But I was  
17 concerned because it was identical to the detainee's eval'. He said  
18 it was accurate.

19          Q.   Right. And you explained to Colonel Malone your opinion  
20 about the stressors in PFC Manning's life at that point --

21          A.   Right.

22          Q.   -- in particular the limitations of confinement and the  
23 uncertainty of his legal situation?

1 A. Right.

2 Q. And Colonel Malone said that he was comfortable taking PFC  
3 Manning off of his medication?

4 A. [Reading from the document] Yes, he said him and PFC  
5 Manning agreed.

6 Q. And you expressed your discomfort with this medical  
7 decision to Colonel Oltman?

8 A. I did.

9 Q. You told Colonel Oltman "I'm looking at someone" -- and I  
10 believe it says "someone who is not in an outpatient who is in the  
11 freaking brig. So that alone would add to his stress/depression  
12 especially once the pace" -- "the pace of the legal proceedings pick  
13 up." You see that?

14 A. Yes, sir, I do.

15 Q. [Reading from the document] You also say it's only going to  
16 get worse when the true weight of his legal situation future hits  
17 him.

18 A. Okay, I said that, yeah.

19 Q. Now let's go back to the other exhibit you have in your  
20 hand, which -- if I could see it for one moment to make sure  
21 [approaching the witness to review the documents]. Yes, it's  
22 Appellate Exhibit 441L. Now in this email, which is dated 17 March;  
23 it's about a month later, you wrote to Colonel Oltman about his topic

1 again, correct?

2 A. [Looking at the document] Yeah, but mostly about his  
3 suicidal comments.

4 Q. Right, well you said ----

5 A. But I did mention ----

6 Q. You write to him about the medication issue again, right?

7 A. He -- it's briefly mentioned in there, yes, sir.

8 Q. And you said that you were thinking about the following,  
9 "If we go by what PFC Manning statement when" -- "which is that he is  
10 not suicidal once he's put on med's, then we have to ask ourselves  
11 how come he's not suicidal now that he's off of med's." Do you see  
12 that?

13 A. [Looking at the document] Yes, sir, I do.

14 Q. So you express to Colonel Oltman your opinion that if  
15 you're suicidal and then you're put on medication, then -- and they  
16 you're -- you can't be taken off those medications because you'd  
17 become suicidal again. Is that your concern?

18 A. I'm just saying how uncommon -- again, I'm not a medical  
19 professional, sir. These are some of the things, you know, and  
20 talking to Colonel Malone that, you know, that we tried to get  
21 answered. 'Cause I can't -- these are just questions I'm asking, but  
22 I'm not an expert.

23 Q. Right. And so as not being an expert you basically still



1 said you didn't believe it was a good idea. You couldn't -- you were  
2 -- couldn't see how someone wouldn't be suicidal if they were taken  
3 off of their medications?

4 A. Right, in conjunction with looking at the person's in  
5 confinement, the weight of the legal situation -- right, in addition  
6 to those things -- right.

7 Q. Now you didn't do any research on this issue did you?

8 A. As far as the effects of coming off of med's -- being  
9 suicidal, no, I did not do any research, sir.

10 Q. Did you ask Colonel Malone about this issue?

11 A. I think -- I didn't address suicidal behavior, but I  
12 remember talking to him about taking his off of med's. And I just  
13 remember him saying, well, he would wean him -- wean him off  
14 gradually. And he'll watch his behavior as he's being weaned off.  
15 And then they both agreed to come off of it because initially it was  
16 a concern that -- that he refused to take his med's. And then they  
17 realized, well, no, Doctor Malone took him off.

18 Q. Well it looks like though your concern now about the fact  
19 that -- the fact that he's coming off med's that he may become  
20 suicidal. Was that your concern?

21 A. Well, I was -- not necessarily that he was suicidal, sir.  
22 I just made a reference to the comments he made, you know, his --  
23 Manning's comments from his initial interview. And that's just

1 something that I asked. I mean, granted, at any time anybody could  
2 be suicidal. You know, are they always going to verbalize that or  
3 display behavior to express that? No, not necessarily. But, again,  
4 this was just after the -- you know, the med's issue and things like  
5 that. Again, these are just questions I'm asking, again, to be more  
6 informed that's all.

7 Q. Well overall then, based upon this concern, this is part of  
8 the calculus that you were taking into account when deciding should I  
9 keep PFC Manning on POI certainly, right?

10 A. Yeah, the coming off MAX?

11 Q. Right.

12 A. I mean -- I looked at -- he came off the medication but he  
13 didn't become suicidal. Even though, yes, we talked about it -- we  
14 knew about it, that wasn't one of the, hey, now I'm really, really  
15 concerned because he's off medication. I looked at the fact that he  
16 was weaned off gradually, then he was off. And, again, suicidal  
17 behavior was not seen, you know, after that.

18 Q. All right, but obviously if you're concerned because he's  
19 in as you would say "a freaking brig" and the medication is something  
20 that was needed to keep him from being suicidal, and now you're  
21 disagreeing or showing concern that he's being taken off of it, this  
22 was something you were at least considering when deciding what status  
23 and classification he should be in?

1           A.    Yes. Because, again, my concern is, hey, look some -- and  
2 people adjust to confinement differently. Some adjust just fine,  
3 some don't. But, again, I was just trying to think ahead and look  
4 down the road. Hey, look, the pace of things are going to pick up.  
5 How's he going to deal with it? I mean at one point we -- he was  
6 seen flushing some of his legal documents down the toilet. We told  
7 him, hey, don't do that. So, again, for me, you have to understand I  
8 am not him. I don't know how much weight this is taking with him  
9 though.

10          Q.    Right. And so when you're addressing this with Colonel  
11 Malone, he's telling you, at least in his medical opinions each week  
12 based upon the guidance he got from you, that there is no clinical  
13 reason for him to be in POI, correct?

14          A.    Right.

15          Q.    He telld you this week after week?

16          A.    [Responded in the affirmative.]

17          Q.    And yet you retain PFC Manning in MAX and POI week after  
18 week?

19          A.    [Responded in the affirmative.]

20          Q.    Why?

21          A.    Well, sir, again, that's from a psychiatric standpoint.  
22 Again, people who want to commit suicide; they're not going to tell  
23 you. They're not going to send you a memo. They're not going to

1 come out and do it. Again, the psychiatry piece is one part that I  
2 do have to take into consideration. And, you know, like Doctor  
3 Russell said, it's very clear that he knows he has to do the leg  
4 work. He knows, hey, look, I have to tell them this is why I don't  
5 want to kill myself. I have to stop doing these things that I do in  
6 the cell that's causing them concerns, you know. So -- I mean to be  
7 very honest, that's one part -- the mental health piece, but, again,  
8 we have just other factors to look at. So, again, when you look at  
9 the decreased communication, the -- you know, the things he was doing  
10 in the cell, not filling chits asking me for anything, offer an extra  
11 rec call, things like that that I think might can -- that can help  
12 him time -- or ease the burden a little bit -- none of that. So just  
13 -- I mean, sir ----

14 Q. Wasn't one of your other concerns that if something  
15 happened to PFC Manning, if he actually did do something under your  
16 watch, that that would impact your career?

17 A. I mean, sir, to be honest, that wasn't in the forefront of  
18 my mind. Like I brief the Marines when I got on deck; I said, we've  
19 just got to stick to basic corrections. Do we continuously monitor  
20 the prisoners? Yes we do. It doesn't matter if it's an officer  
21 prisoner, a MAX, medium -- and it doesn't matter. I mean, I never  
22 kept saying, oh, you know what, I'm going to keep him in MAX/POI  
23 because I'm worried about my career. If that was the case, sir --

1 you saw the emails that I put, I have no problems taking him off POI.

2 I made that clear to Colonel Oltman ----

3 Q. Well do you recall telling the defense that my issue was as  
4 a young corrections officer in the Marine Corps with under 20 years  
5 of service, I have more to prove and more to work towards. Do you  
6 recall telling us that?

7 A. No. I recall when I spoke to Captain Tooman that I just  
8 kind of said, hey, I take my job very seriously. I love corrections,  
9 been in the field my whole career except for one year. But I do  
10 remember saying, hey, look, I'm not -- you know, I'm a true  
11 professional. I'm going to do, you know, the things I need to do,  
12 but, again, you know, I'm not going to go against correctional  
13 judgment, you know. But, again, in my mind, you know, worrying about  
14 my career -- no -- but, again, I do understand that, hey, with --  
15 people get relieved for whatever, suicide, escape, whatever the case  
16 is, you know, if they're over 20 maybe they'll tell them to retire.  
17 Obviously I don't have that option. But, again --

18 Q. Yeah, and do you --

19 A. -- my career ----

20 Q. -- recall saying that to us -- something along the lines of  
21 -- because, guess what, if I make a mistake and have a suicide on my  
22 watch, there's no, hey, Chief Warrant Officer Barnes, you need to  
23 retire. I'll probably get put out with no retirement. So everything

1 I've worked really hard for for the past 16 years goes down the  
2 tubes. And then you talk about Chief Averhart had more than 20 years  
3 so he could retire. Do you recall saying that?

4 A. Vaguely, sir. Again, we've talked on different occasions.  
5 So, you know, we've talked more than once. So it's kind of hard to  
6 say. But, again, that was not a reason for me to say, well, too bad.  
7 I'm just going to keep him there.

8 Q. Well do you recall at least expressing that concern that,  
9 hey, look, if something happens and somebody says I'm at fault and I  
10 get relieved, I've only got 16 years -- and now 16 years and 8  
11 months, I don't have the luxury of retirement at that point?

12 A. Yes, sir, I don't recall. We had different conversations.  
13 But I just knew one of the things I said was I make decisions based  
14 on my best correctional judgment. And when people ask me to do  
15 otherwise; simply ask for it in writing so that I'm covered.

16 Q. Now when you say you don't recall, are you saying that you  
17 don't recall saying that meaning that you didn't say it or I don't  
18 recall because I just don't remember it?

19 A. Honestly, sir, I don't remember. We spoke a couple of  
20 times, you know, maybe three -- four times. I know sometimes there  
21 was email traffic -- he was out, I was out, so to be very honest with  
22 you, sir, I don't recall.

23 Q. Okay. Now I want to look at the C&A board forms that you

1 signed off on each week, okay?

2 A. Okay.

3 Q. And I want to go ahead and have those in front of you. You  
4 might already have them. Do you have those up there [assisting the  
5 witness in looking through the documents]? Yes, you do.

6 A. [Looking through the documents] Yep.

7 CDC[MR. COOMBS]: Okay. I'll go ahead and retrieve Appellate  
8 Exhibit 441L and 441M from you [retrieving the documents from the  
9 witness].

10 Q. Now look -- again -- and I think we covered this a little  
11 bit, but I want to make sure, even under your understanding when we -  
12 - when we're looking at boxes that are checked on each of these C&A  
13 board eval's --

14 A. [Looking at the documents and responding in the  
15 affirmative.]

16 Q. -- those boxes are checked on the higher custody and lower  
17 custody classification standards by the guidance -- by the counselor,  
18 correct?

19 A. That's correct, sir.

20 Q. And when there was a new form that was used with the  
21 detainee's election that was based upon your request?

22 A. Right. But one of the forms as you noted, that was dated  
23 before I officially took over. But, yes, that's the question I

1 raised and they changed it.

2 Q. Right. So can you turn to the 28 January 2011 C&A board  
3 report?

4 A. [Looking through the document] Okay, sir.

5 Q. Now I want to talk about some of the things that are  
6 checked on that. You see assaultive/disruptive behavior that's  
7 checked?

8 A. [Looking at the document] Okay.

9 Q. That's presumably the 18 January incident or is that  
10 something else?

11 A. Yeah, that -- that incident -- and, of course, again, we  
12 review everything we have -- that we got in when he came in. So --  
13 the paperwork from Kuwait as well -- but, yes.

14 Q. And disruptive is actually circled --

15 A. Right.

16 Q. -- right?

17 A. Right.

18 Q. And the same box is -- is checked for the next four weeks.  
19 And you can kind of flip through to see that. And I just wanted to  
20 ask you why is it checked for the next four weeks?

21 A. [Looking through the documents] I mean, when they check  
22 these they're just looking at things in the history or things that  
23 are ongoing. They may change. For example; let's say he has better



1 family relationships. He's saying, hey, look, you know, my family  
2 and I are getting closer, we're talking more, they're visiting more,  
3 then that, you know, over time that box would not be checked because  
4 that's a change.

5 Q. Yeah, but in -- specifically to the assaultive/disruptive  
6 behavior box --

7 A. [Responded in the affirmative.]

8 Q. -- can you tell me why that box is checked for the  
9 following four weeks?

10 A. I mean, sir, like I said, when they present these things in  
11 front of the board, they're going off, you know, what's documented as  
12 history there.

13 Q. All right. There's another box that's checked there, the  
14 poor home conditions or family relationships?

15 A. Okay.

16 Q. And this box is pretty much checked week after week. Do  
17 you know why that box was checked?

18 A. I mean he -- that's part of the answer he gave on his  
19 intake form; he did say a few family ties -- I believe that's what he  
20 said. But, again, he never showed that he had a very close  
21 relationship with family. And, as a matter of fact, he removed some  
22 of his family and friends from his visitation list. So.

23 Q. So was there anything PFC Manning could do about the poor

1 home, family -- or home conditions --

2 A. I mean, honestly, sir --

3 Q. -- from the brig at least?

4 A. -- if -- yeah, if they had improved, certainly that would -  
5 - that would -- that box should not be checked. If it's a thing  
6 where, hey, look, initially upon confinement, yeah, there were little  
7 to no family ties, but we know sometimes in tough situations families  
8 come together, people, you know, get closer maybe than they were  
9 before. So it could be a -- had it been a thing of over time like he  
10 had a lot more visits, you know, he had family in Maryland -- I know  
11 his mother's overseas; that kind of thing -- was a thing where  
12 they're able to visit more -- he had a lot more interactions or  
13 talking about them more, or writing to them a lot, or he was getting  
14 a lot of letters from them and he's expressing, hey, you know, my  
15 family and I are getting real close again. This is good. You know,  
16 that kind of thing, then, yes, that'd -- that would be different.  
17 Obviously that something that wouldn't be checked.

18 Q. But obviously if -- if he's in confinement and he as a poor  
19 relationship with his immediate family, and that doesn't improve,  
20 then that box is going to continually be checked?

21 A. Right, if it -- if it doesn't improve, sir, that's correct.

22 Q. Okay. And then another box that was checked week after  
23 week was the length of potential sentence?

1 A. Yes, sir.

2 Q. And why is that relevant to the issue of MAX/POI?

3 A. Again, sir, somebody that's in the brig for one count of  
4 Article 86, UA, obviously they would not face the same type of  
5 sentence as someone with alleged charges such as these. So the  
6 potential length of sentence by the SECNAV, that's one of the factors  
7 we can consider. And, again, it -- it clearly goes -- that depends  
8 on the charge. You know, each charge carry different amounts of  
9 time, sir.

10 Q. And obviously PFC Manning couldn't do anything about the  
11 potential length of sentence that he was facing, correct?

12 A. That's correct, unless the command provided me a new charge  
13 sheet with more reduced charges or something totally different -- way  
14 scaled down, then that's something that we would definitely take a  
15 hard look at. So it's not just okay, okay, we get a new charge sheet  
16 or they said, you know, what, nope, all of that is done -- just 128  
17 now. Naturally, we can't take the same course of action.

18 Q. So if the charge sheet doesn't change and it's still facing  
19 a potentially lengthy sentence that box is always going to be  
20 checked?

21 A. Yes, sir.

22 Q. Now this week there are some typewritten remarks. Do you  
23 see that?

1 A. Say that again?

2 Q. On this 28 January 2011 eval' there are some type-written  
3 remarks?

4 A. [Looking at the document] Yes.

5 Q. And who typed those?

6 A. That's -- the counselor would do it. That's normally what  
7 we would do.

8 Q. All right, so that would be Gunny Sergeant Blenis in this  
9 instance?

10 A. Yes, sir.

11 Q. And these same exact word-for-word typewritten remarks are  
12 verbatim for the -- from the previous two C&A boards.

13 A. [Looking through the document] Let me check, sir.

14 Q. Sure.

15 [Pause]

16 A. Yes, sir, that's correct.

17 Q. And do you know why these remarks are basically just cut  
18 and pasted into three consecutive C&A boards?

19 A. Well obviously the first two was not on my watch. On the  
20 28th, again, when I first took over, I ordered them to do a review of  
21 everybody. And maybe it's just, hey, putting everything in there for  
22 me to see an additional whatever -- what other notes that they had.  
23 So I just think it was in there for -- for that reason. But in

1 addition, because the board members changed sometimes, you know,  
2 things like that, it's just to give general background information.

3 Q. Okay. Now your remarks on the bottom say that you reviewed  
4 the mental health evaluations, then PFC Manning appears to be  
5 moderate -- a moderate risk of self-harm per Colonel Malone, correct?

6 A. That's right, sir.

7 Q. But Colonel Malone actually indicated that PFC Manning did  
8 not pose a risk to himself during that week?

9 A. Yeah, but if I wrote that that's 'cause he -- that's the  
10 box he checked though.

11 Q. Can you check the -- I guess, the medical eval -- do you  
12 have those up there, too?

13 A. [Looking through the documents] Let's see.

14 CDC[MR. COOMBS]: Actually you don't. I'm going to hand you  
15 Enclosure 21 [handing the document to the witness].

16 Q. And what date would you look at for this one?

17 A. [Looking at the document] Well, the eval that was done --  
18 the latest eval that was done closest to that date, sir. So -- I  
19 mean, I took over on the 24th -- I would have to look. I'm not too  
20 sure exactly of the date. So I would guess it would obviously be  
21 some date before the 28th.

22 Q. Okay.

23 A. Between that and the -- sometime before that.

1 Q. All right. So there's an eval on the 28th, would that be  
2 the one that you'd look for?

3 A. [Looking at the document] Let me see, sir.

4 Q. And that, by the way, is Page 25 of 36.

5 A. Yes, because the one before that was before me. So, yes,  
6 that would be the one, sir.

7 Q. All right. And does Colonel Malone indicate that the  
8 inmate does not pose a risk to himself?

9 A. [Looking at the document] Let me read through it if you'd  
10 give me a minute, sir.

11 Q. Sure.

12 [Pause]

13 A. [Reading from the document] Yes he did say would not  
14 require a higher level of psychiatric care to mitigate risk at this  
15 point.

16 Q. And does he also indicate the inmate does not need to be  
17 segregated from the general population?

18 A. [Looking at the document] Let me see on this one.

19 [Pause]

20 A. Right; he checked that box, sir.

21 Q. And he also said that PFC Manning would not require a  
22 higher level of psychiatric care at this point to mitigate the risk,  
23 correct?

1 A. Right.

2 Q. And he said that PFC Manning would be required basically  
3 routine outpatient follow-up?

4 A. Yes he did put that, sir.

5 Q. And that's nowhere in the C&A board report, correct?

6 A. Well, again, sir, they look at this though. So, I mean,  
7 obviously it's not a lot of room there. I mean sometimes they'll use  
8 a continuation sheet. But he would -- the way it would work is, he  
9 would -- you know, we'll talk -- of course, he would go see him -- he  
10 would do his eval'. And then the board members would see that and  
11 they would discuss it. And then, obviously, I would get briefed on  
12 it as well -- and I'll talk to Colonel Malone.

13 Q. But not only is it nowhere in that report -- none of the  
14 boxes on the lower custody status are checked, correct?

15 A. Say that again, sir?

16 Q. I said, not only is any of that information we just covered  
17 from Colonel Malone's eval not in the C&A board's evaluation or  
18 recommendation, but, also, none of the lower custody factors are  
19 checked, is that correct?

20 A. Well if they don't apply, sir, they're not going to be  
21 checked.

22 Q. Well do you see other there where you might be able to  
23 check that and put in perhaps inmate does not pose a risk to himself

1 or doesn't require psychiatric care to mitigate the risk?

2 A. I mean to be honest, sir, because we use that and -- I get  
3 this and the eval together, I mean, they don't -- it's not there.  
4 But, again, I still see the eval though. And the board members are  
5 still made aware of the eval.

6 Q. Well can you explain to me then why the box is checked  
7 where it says a mental evaluation indicating serious neurosis or  
8 psychosis is checked?

9 A. [Looking at the document] I know initially there were some  
10 an -- anxiety issues, again, the gender issues. And, again, this was  
11 based on, you know, information that was in there before. So, again,  
12 with me coming on board and looking at -- you know, I just can't look  
13 at, okay, what's on the plate today. I need to see everything that  
14 we had from Kuwait and try to review as much as I can and look  
15 through all that stuff. But at some point that was the case.

16 Q. Well, yeah, but I -- I guess it's not the case at the point  
17 the eval is being done, right?

18 A. Right. But, again, those factors, sir, when they checked  
19 those boxes, those are things based on something in the record or in  
20 history that are checked as something that occurred in the past or  
21 something that's part of his records. So -- but, again, when we have  
22 the eval, yes, it'll put -- you know, he had his eval that day and we  
23 have this. So, again, it's not -- everything that Doctor Malone put



1 in his eval is not on this C&A worksheet. But it does not mean that  
2 it wasn't discussed or that the board members weren't briefed on it.

3 Q. Okay. Can you look at that 4 February 2011 C&A board?

4 [The witness did as directed.]

5 A. [Looking through the document] Okay.

6 Q. Now several of these same boxes are ticked this week; the  
7 disruptive behavior, the low tolerance of frustration, the poor home  
8 conditions, and the length of potential sentence, correct?

9 A. [Looking at the document] Yes, sir.

10 Q. And this week again the board ticks the box a mental  
11 evaluation indicating serious neurosis or psychosis, correct?

12 A. Again -- but that was one that was done prior to him  
13 getting to us. And that is part of his records, sir. So when they  
14 say that they're not talking about, you know, okay, Colonel Malone  
15 just did one. Again, there was some evaluation done in his record  
16 prior to that --

17 Q. [Responded in the affirmative.]

18 A. -- to -- to address those things.

19 Q. Okay, and can you look to Colonel Malone's 3 February eval?

20 [The witness did as directed.]

21 A. [Looking through the documents] What date was that, sir?

22 Q. 3 February 2011.

23 [Pause]

1 MJ: Mr. Coombs, my exhibit goes from the 28th of January and  
2 the next one is the 18th of February.

3 WIT: And that's why I said ----

4 CDC[MR. COOMBS]: I'm sorry, yes. It's --

5 WIT: -- they may have lost them.

6 CDC[MR. COOMBS]: -- these are the ones where -- we didn't  
7 have them, but they went into the weekly reports. So if you go to  
8 your weekly reports that you did.

9 WIT: Is that in this one?

10 CDC[MR. COOMBS]: Yes. I apologize.

11 WIT: That's okay. It just want to make sure I was looking for  
12 the right thing.

13 [Pause while the witness looked through the document.]

14 Q. And this would be part of Gunny Sergeant Blenis'  
15 documentation to you.

16 A. [Reading from the document] Okay, it's dated 7 February, so  
17 the period 2 February through 7 February, is that the ----

18 CDC[MR. COOMBS]: Let me look through just to make sure  
19 [looking through the documents with the witness].

20 WIT: Okay.

21 [Pause]

22 [The civilian defense counsel was looking through the documents with  
23 the witness.]

1 WIT: Okay.

2 CDC[MR. COOMBS]: That way I'm not standing over you.

3 WIT: All right, sir.

4 ATC[CPT VON ELTEN]: Your Honor, Page 80 of 109.

5 CDC[MR. COOMBS]: Yes.

6 Q. So if we're looking at Page 80 of 109, do you see where it  
7 says Colonel -- excuse me, current mental health evaluation -- it's  
8 in Echo?

9 A. [Looking at the document] Okay.

10 [Pause]

11 Q. So there it's documented that Colonel Malone saw PFC  
12 Manning on 3 February, and concluded that he did not believe that he  
13 needed to be segregated from the general population from a  
14 psychiatric perspective, correct?

15 A. [Looking at the document] Right. But one thing -- let me  
16 clarify, sir --

17 Q. Sure.

18 A. -- because of the layout of the facility and because it was  
19 pretrial, all inmates were housed in special quarters. Okay, so when  
20 they keep saying "general population" it's kind of hard 'cause  
21 they're all housed there. So -- but prior to that, when we had  
22 people out in the dorms and special quarters was only for MAXs or  
23 people on medical segregation or protective custody, then it would

1 apply more. So then -- and I tried to convey that to him before that  
2 everybody was housed in special quarters. So I don't know if he was  
3 just maybe meaning, well, just being a MAX; I don't know. But,  
4 again, with general population, just so it's kind of clear, all  
5 inmates were housed in that single -- in a single cell in special  
6 quarters, sir.

7 Q. Right. And he also indicates that PFC Manning was a low to  
8 moderate risk of self-harm, correct?

9 A. Right.

10 Q. And he says that PFC Manning -- anywhere in there does he  
11 say that PFC Manning suffered from a serious neurosis or psychosis?

12 A. No it did not say that, sir.

13 Q. All right. And then the board obviously on that week  
14 determined PFC Manning should stay in MAX and POI?

15 A. Yes, sir. They recommended that.

16 Q. And -- right. And you approved of that recommendation?

17 A. Yes, sir.

18 Q. If you could look to your 11 February 2011 report. Or,  
19 excuse me, 11 February C&A board recommendation.

20 A. [Looking through the documents] Okay.

21 [Pause]

22 A. Okay.

23 Q. And here, again, the C&A board recommends keeping or

1 retaining PFC Manning in MAX and POI, correct?

2 A. Yes, sir.

3 Q. And the same boxes are checked, except this week the box  
4 saying a mental evaluation indicating serious neurosis or psychosis  
5 is not checked?

6 A. [Looking at the document] Okay.

7 Q. Do you know why?

8 A. I remember brief -- addressing this. And I said we need to  
9 make sure that there is consistency. I know in the beginning when I  
10 spoke to 'em a lot of the boxes were checked were from -- especial  
11 with that eval' were from, you know, the information received from  
12 Kuwait, which is -- which was exactly right at the time. And I can't  
13 remember why they told me that changed -- if was, okay, ma'am, well  
14 we know you're aware of the background -- now you've been here and we  
15 didn't check it. I honestly don't remember. But I know once I saw  
16 there were differences that I did address it with staff, sir.

17 Q. The differences -- what do you mean?

18 A. When different boxes are checked.

19 Q. Okay. So you --

20 A. I mean, obviously if -- if -- again, if a situation  
21 improved or something is absolutely no longer the case then, yes, I  
22 don't expect it to be checked. But my thing is if we're using -- as  
23 far as consistency, these boxes that are checked, some of it was

1 based on the information we received from Kuwait. So we need to  
2 decide -- we're not going back and forth. So those things were  
3 documented and they were right in checking those boxes. But, again,  
4 when I noticed that, that's something I brought to their attention.

5 Q. All right. If you look down at the remarks section, this  
6 time it's handwritten, and I imagine this is written by the counselor  
7 again?

8 A. [Looking at the document] Yes, sir.

9 Q. [Reading from the document] And it says SND has previous  
10 demonstrated suicidal ideations and gestures. And by this I imagine  
11 ----

12 A. [Looking through the documents] Wait a minute. Are we  
13 looking at this worksheet, sir? Where's that at?

14 Q. This is for the 11 February -- do you see where that's  
15 written?

16 A. [Looking through the documents] Okay.

17 Q. Now -- so it -- on the 11 February report it's written  
18 about a previous -- previous demonstrated suicidal ideations and  
19 gestures, is that correct?

20 A. [Looking at the document] Yes, sir.

21 Q. And by this I imagine whoever wrote this meant what  
22 happened in Kuwait 7 months earlier?

23 A. I mean that's more than likely what they would be referring

1 to, sir.

2 Q. [Reading from the document] And then the remarks further  
3 say that SND has made written and verbal comments indicating  
4 potential suicidal action?

5 A. [Looking at the document] Right.

6 Q. [Reading from the document] SND has stated that previous  
7 written and verbal statements may or may not be false.

8 A. [Looking at the document] Right.

9 Q. Is that right?

10 A. That's right, sir.

11 Q. And let's break that down just for a moment by; the written  
12 comments are you meaning the always planning, never acting comment?

13 A. Yes, sir.

14 Q. And by the verbal comments are you referring to the  
15 comments made by PFC Manning on 21 January when he appeared before  
16 the board?

17 A. [Looking at the document] I would think that would be one  
18 of the comments, sir. But, again, I'm not, you know, in there. But  
19 just based on some of the questions I've asked and -- yes.

20 Q. So between 21 January and 11 February, none of this is ever  
21 annotated on a C&A board form. Do you know why?

22 A. Well, again, sir, you know, we have his book, and I'm sure  
23 it could have been in the counselor notes. It's also in the initial

1 -- the inmate's background summary that the counselor types up at  
2 that first interview. So to be very honest with you, because it did  
3 not appear in a C&A worksheet before doesn't mean it wasn't discussed  
4 or that it's not annotated.

5 Q. Do you know why the board would want to annotate it now as  
6 opposed to the previous weeks?

7 A. To be honest with you, sir, I don't see that there's some  
8 motive or something that's behind that to be very honest. I mean, I  
9 would have to look at all the C&A sheets, you know, from when he  
10 first got confined obviously. But, to be honest with you, sir, I  
11 really don't think it's anything -- or, wait, let's do this now for  
12 some -- some -- something underhanded that was going on. I don't  
13 think so.

14 Q. Okay. Can you turn to the 18 February 2011 report?

15 A. [Looking at the documents] Sure.

16 Q. Again, this is for the C&A board.

17 A. [Looking at the document] Okay.

18 Q. Now this week is essentially the same in that the boxes of  
19 disruptive behavior, low tolerance of frustration, the poor home  
20 conditions and family relationships, and length of potential sentence  
21 is checked, right [reading from the document].

22 A. Right.

23 Q. And the disruptive behavior, again, is from the anxiety



1 attack the month earlier; 18 January 2011?

2 A. Right.

3 Q. And then there's a new box that's ticked -- and it's one of  
4 the other boxes, and it says potential mental disorders [reading from  
5 the document]. Do you see that?

6 A. [Looking at the document] Yes, sir, I do.

7 Q. And why is that checked? Do you know?

8 A. [Looking at the document] Let me just read the remarks. If  
9 you'll give me a second, sir.

10 Q. Sure.

11 A. Thanks.

12 [Pause while the witness read the document.]

13 A. I believe they were referring to the gender issue. I know  
14 there was an issue with anxiety and that kind of thing as well.

15 Q. And do you know why they would be referring to the gender  
16 issue at that point?

17 A. I mean -- no, sir. I don't -- I don't know, you know, I'm  
18 just -- by my -- by what I see that's -- those are the things that I  
19 recall being discussed. But, again, I don't -- I don't know why it  
20 was on there. It wasn't on there afterwards. And, again, sir, this  
21 is something again where I talked about, hey, I noticed that, you  
22 know, things are not consistent when factors didn't change. And I  
23 addressed that.

1 Q. Okay. And going back to Enclosure 21 for Colonel Malone's  
2 report on that day --

3 A. Okay.

4 Q. -- the 18 February 2011, which the C&A board would look at.  
5 Can you explain why when Colonel Malone on that day checks -- or  
6 actually circles the box that says mental -- mental disorder is  
7 resolved? Do you see that?

8 A. [Looking at the document and responding in the  
9 affirmative.]

10 Q. So if Colonel Malone is saying the mental disorder is  
11 resolved, why would the C&A board check potential mental disorder?

12 A. [Looking at the document] Again, sir, there were a couple  
13 different ones. So -- to be honest with you, I didn't know, you  
14 know, which one in particular was resolved. I know there are  
15 different issues. And, again, we don't really discuss those kinds of  
16 things in details as that borderline HIPAA things. But I don't think  
17 it was something where they just -- we're going to make stuff up, to  
18 be honest with you. Because, again, like I explained before, even  
19 though they were looking at him, evaluating him -- evaluating him  
20 saying there's nothing from a psychiatric standpoint, again, you  
21 know, we're seeing behaviors. And it's like, okay, something here is  
22 still no jiving. Please help us out.

23 Q. Do you see where on Colonel Malone's evaluation he puts the

1 risk of self-harm as low?

2 A. That's correct, sir.

3 Q. And the risk for violence is low?

4 A. [Responded in the affirmative.]

5 Q. And given what Colonel Malone's evaluation was, do you see  
6 any reason why that potential mental disorder box would be checked  
7 then?

8 A. Again, sir, to be honest with you, that could have been one  
9 of those things, again, when I addressed the inconsistencies. So, you  
10 know, there were other issues. But, again, if you notice -- yeah,  
11 you're saying he's checking low -- low risk of suicide or low risk  
12 for violence, but you notice that there's a box that does not say at  
13 no risk.

14 Q. Okay. Can you look to the 21 February 2011 C&A board  
15 report?

16 A. 21 February you said?

17 Q. 25 February. I'm sorry.

18 A. 25.

19 [The witness looked through the documents.]

20 WIT: Can we take a break after this question, sir?

21 CDC[MR. COOMBS]: We can take a break now if you'd like?

22 WIT: Okay.

23 MJ: All right. How long would you -- is 10 minutes sufficient?

1 WIT: Yes, ma'am.

2 MJ: Is 10 minutes sufficient for everybody else?

3 ATC[CPT VON ELTEN]: Yes, ma'am.

4 MJ: All right, court is in recess until 25 minutes until 5  
5 o'clock or 1700.

6 **[The Article 39(a) session recessed at 1624, 7 December 2012.]**

7 **[The Article 39(a) session was called to order at 1639, 7 December**  
8 **2012.]**

9 MJ: This Article 39(a) session is called to order. Let the  
10 record reflect all parties present when the court last recessed are  
11 again present in court. The witness is on the witness booth. Mr.  
12 Coombs, please proceed.

13 CDC[MR. COOMBS]: Chief Barnes, I remind you you're still  
14 under oath.

15 WIT: That right, sir.

16 [Examination of the witness continued.]

17 Q. If you would turn to Page 12 of 26 for Enclosure 32. That  
18 should be the 25 February 2011 C&A board report.

19 A. [Looking at the document] Okay.

20 Q. And this week the box dealing with assaultive behavior is  
21 not ticked, is that correct?

22 A. [Looking at the document] That's correct, sir.

23 Q. And the other box is the low tolerance of frustration, the

1 poor home conditions, the length of potential sentence, those are  
2 still checked?

3 A. [Looking at the document] Hold on a second, sir. The low  
4 tolerance and what other boxes, sir?

5 Q. Poor home conditions --

6 A. Right.

7 Q. -- and length of potential sentence.

8 A. Right.

9 Q. And this week a new box is added; pattern of erratic  
10 behavior?

11 A. [Looking at the document] Okay, I see that.

12 Q. And another new box is added; based on previous written  
13 statements of suicidal ideations.

14 A. Okay.

15 Q. And let's look at each of those. With regards to the --  
16 the pattern of erratic behavior, there's not a notation, at least in  
17 the note section, what that means. Do you know what that box meant?

18 A. Again, sir, some of this background information is based on  
19 what we received from Kuwait. But, again, this is somebody  
20 different. You would notice that -- you know, the board members were  
21 different on this. So on that day obviously it wasn't the same  
22 person as before. But most times they'll capture -- it's about most  
23 of the same information, sir.

1 Q. But for -- from you as a commander approving of the board's  
2 recommendation --

3 A. [Responding in the affirmative.]

4 Q. Did you know what pattern of erratic behavior meant 'cause  
5 you said earlier anytime there's a new box you would find out what  
6 they meant by that?

7 A. Well I mean I talked to them in general. And I just -- and  
8 I asked if I was thinking correctly referring to, you know, the stuff  
9 in Kuwait and then the incident on 18 January.

10 Q. Okay, and so the erratic behavior meant what to you, I'm  
11 sorry?

12 A. I mean that was just something considered. It wasn't one  
13 thing that stood by itself.

14 Q. Okay. Now the previous statements of suicidal ideations,  
15 they were presumably from the intake questionnaire about seven to  
16 eight months earlier, is that right?

17 A. Some of that was in -- again, from the paperwork we  
18 received from Kuwait.

19 Q. So even older?

20 A. That's correct, sir. Again, we review everything we get  
21 with the confinement and that's part of the record.

22 Q. But this is the first time that that annotation ever  
23 appears on a C&A board review that you're a part of, correct?

1           A.    I would have to go back and check, sir [looking through the  
2 documents].

3           Q.    All of them are right there, so you can go ahead and look  
4 real fast.

5           A.    [Looking through the documents] Okay.  Well actually that  
6 comment was on the one dated 28 January.

7           Q.    Which is that?

8           A.    [Reading from the document] You said previous demonstrated  
9 suicidal ideations and gestures; that -- that's the one you were  
10 talking about, sir?

11          Q.    Right, previous statements of it.

12          A.    All right, but you're saying something about the one on 25  
13 February -- if I had -- if I heard you right, that being the first  
14 one.  But I was just making a point that on the 28th those comments  
15 were in there as well.

16          Q.    Previous ----

17          A.    I just wanted to make sure I understood you.

18          Q.    Yeah.  The -- on the -- on the January 1, it states  
19 previous statements of suicidal ideations?

20          A.    [Reading from the document] It says as -- from the one on  
21 the 28th; SND has previous demonstrated suicidal ideations and  
22 gestures.

23          Q.    Right.  So statements -- the first time you're talking

1 about any sort of statement is on this report though, correct?

2 A. As far as me on the 20th 'cause that's the first one I did  
3 after taking over, sir.

4 Q. Now Colonel Malone, if you look at Enclosure 21 to  
5 Appellate Exhibit 259, it should be Page 27 of 36 ----

6 A. Okay, which enclosure are we looking at, sir?

7 Q. It's the mental health evaluations.

8 A. Okay, and which dates?

9 Q. Page 27 of 36.

10 A. [Looking through the documents] Oh, 27 -- okay.

11 Q. And you see where Colonel Malone says that PFC Manning does  
12 not need to be segregated from the general population, again?

13 A. [Looking through the documents] Okay.

14 Q. And he also states that he would only need routine  
15 examinations in the future, is that correct?

16 A. Yes, sir.

17 Q. And he states that PFC Manning was in entering full  
18 remission on his anxiety disorder.

19 A. Yes, sir.

20 Q. Do you see on the C&A board where you made your handwritten  
21 notation -- and I'm pretty sure I'm reading this correctly, but you  
22 can correct me if I'm wrong -- does it say seems to be handling the  
23 stressors in a better fashion?



1       A.    Yes, that's what I put, sir.

2       Q.    And what did you mean by that?

3       A.    Again, that was early like a little bit after I took over.

4   And, again, his mood was better, communication was better, but,

5   again, in talking to him I know things happened before I took over.

6   It may have been more stressful for him, but just upon my

7   observations -- and his attitude -- he was a little bit more jovial,

8   again, during that timeframe. So that's -- that's probably why I

9   made that comment.

10       Q.   All right, and so that carries us almost to the end of

11   February, would you agree?

12       A.    Right.

13       Q.    And so at least at that time period I -- from the

14   documentation it appears that you haven't noticed a dramatic --

15   dramatic drop off in PFC Manning's communication with you?

16       A.    Not really. It wasn't dramatic, sir. I noticed some

17   change. But, again, for me -- if I see something one time I kind of

18   say, okay. But then if I see the pattern, that's when I kind of take

19   a look, okay, we maybe it just wasn't an isolated thing.

20       Q.    And based upon everything you saw there, you approved of

21   the board's recommendation to keep him in MAX and POI?

22       A.    Right.

23       Q.    Now if you'll turn to Page 13 of Enclosure 32, this is the

1 C&A board documents again.

2 A. [Looking through the documents] Okay.

3 Q. The C&A board took place right after the 2 March incident

4 when PFC Manning's clothing was taken away from him, correct?

5 A. [Looking at the document] Yes.

6 Q. And you chose to keep him in MAX and POI based upon, in

7 part, the board's recommendations to you?

8 A. [Looking at the document] Okay, if you notice, sir, Master

9 Sergeant Papakie signed. I was absent that day.

10 Q. That's what I was going to ask you, you didn't sign the

11 form, right?

12 A. No, it says "for" -- it says "for" and Master Sergeant

13 Papakie signed in that -- in for me because I was out that day.

14 Q. In my experience normally when someone signs for they get a

15 VOCO from the person they're signing for.

16 A. In this case, sir, no. He's a brig supervisor. He's my

17 senior enlisted advisor, and when I'm away, you know, he doesn't call

18 me to see what do you want me to put or whatever. I mean, obviously

19 if I was deployed he would not be able to contact me, sir. So, I

20 mean, to be very honest, that's one of the -- you know, the luxuries

21 of being the senior enlisted advisor -- you make decisions in my

22 absence as long as they're just or fair. But, again, that wasn't a

23 thing where even with me signing for my boss, I don't call him. You

1 know, if it's something that I know by his billet as the Inspector  
2 General -- that is -- there's no delegation to me then, yes, if he's  
3 -- if I'm able to contact him then that's what I'll do. But in  
4 routine matters when I'm able to sign "for," I do the same thing,  
5 sir.

6 Q. All right, so if I'm understanding correctly, on 4 March it  
7 was Master Sergeant Papakie who made the decision, and only Master  
8 Sergeant Papakie, on approving the board's recommendation?

9 A. That's right. But he would follow-up either with a  
10 conversation or, you know, an email or something like that.

11 Q. All right, and if you turn to Page 28 of 36 for Colonel  
12 Malone's eval.

13 A. [Looking through the document] Okay.

14 Q. You see on 4 March, Colonel Malone found PFC Manning's risk  
15 assessment was stable and low, correct?

16 A. [Looking at the document] Oh, yeah, he marked low for risk,  
17 yes.

18 Q. And also stable?

19 A. [Looking through the document] Okay, down below risk  
20 assessment -- stable; low, uh-hu.

21 Q. And they he also said that PFC Manning's anxiety disorder  
22 was in remission again; see that?

23 A. Yes.

1 Q. And he indicates that PFC Manning does not need to be  
2 segregated?

3 A. Right.

4 Q. And I guess, because you weren't the decider; Master  
5 Sergeant Papakie was, he decided to follow the board's recommendation  
6 to retain PFC Manning in MAX and POI?

7 A. Yes, sir.

8 Q. If you'll turn back to the C&A board reports; Page 15 of  
9 26, this should be the 11 March 2011 C&A board.

10 A. [Looking at the documents] Okay.

11 Q. And this week the following boxes are ticked; the low  
12 tolerance of frustration, the poor home conditions, and length of  
13 potential sentence. Do you see that?

14 A. [Looking at the document] Yes, sir.

15 Q. And the same box saying patterns of erratic behavior;  
16 that's also checked?

17 A. Yes, sir.

18 Q. And, again, from that you're just assuming it's -- it's  
19 some sort of behavior or something else?

20 A. Well, it's not assuming, sir. I mentioned before when you  
21 asked me the issues he had obviously in Kuwait and then the issue  
22 before my watch on 18 January -- 'cause that behavior, to be very  
23 honest, is not really common, sir.

1 Q. Okay, so it's something that occurred six or seven months -  
2 - well, actually at that point eight months ago, and then something  
3 occurred in January 2011?

4 A. Right.

5 Q. And Colonel Malone evaluated PFC Manning on 11 March.

6 A. Okay.

7 Q. If you'll turn to Page 30 of 36 you'll see that.

8 [The witness looked though the document.]

9 Q. In Enclosure 21. And he found PFC Manning's anxiety  
10 disorder remained in remission.

11 A. [Looking at the document] Okay.

12 Q. I that right?

13 A. Yes.

14 Q. And Colonel Malone also indicated that PFC Manning was a  
15 low risk for suicide or self-harm?

16 A. Right.

17 Q. And this time you did approve and kept him in MAX and POI  
18 still, right?

19 A. I did, sir.

20 Q. If you go back to the C&A board; Page 17 of 26, this is the  
21 18 March.

22 A. [Looking through the document] Okay, sir.

23 Q. And this week the following boxes are ticked; low tolerance

1 of frustration, poor home conditions, length of potential sentence.

2 A. Okay.

3 Q. The same box, same patterns of erratic behavior?

4 A. Yes, sir.

5 Q. And in the remarks section at the bottom it says [reading  
6 from the document] SND's behavior has become secluded from the  
7 majority of the brig staff and the -- and the previous visitors. Do  
8 you see that?

9 A. [Looking at the document] Yes, sir.

10 Q. And do you know who wrote that?

11 A. That was Master Sergeant Papakie, sir. Again, I was out  
12 that day. He signed "for."

13 Q. And in the comment section that's attached to that; the DD  
14 Form 2719 -- if you turn the page.

15 A. [Looking at the document] Okay.

16 Q. Do you see where it says [reading from the document] SND  
17 has recently begun to isolate himself showing limited to no interest  
18 in conversation with staff or his counselor?

19 A. [Looking at the document] Okay. I see it, sir.

20 Q. All right. And at this point on 18 March you've already  
21 ordered PFC Manning to be surrendering his underwear at night,  
22 correct?

23 A. Right.

1 Q. And at this point; 18 March, PFC Manning's already required  
2 to wear a suicide smock every night, correct?

3 A. That's correct, sir.

4 Q. And this was due to his comment to Master Sergeant Papakie?

5 A. Oh, yeah, again, but that was one factor. And Headquarters  
6 Marine Corps made the call to purchase those.

7 Q. Right. But he's no longer given his underwear and is  
8 wearing a suicide smock directly due to the fact he made a certain  
9 comment to Master Sergeant Papakie?

10 A. That's correct, sir.

11 Q. Any chance at this point that PFC Manning is isolating  
12 himself due to the fact that he believes any statement he makes might  
13 be misinterpreted and used against him by the brig staff?

14 A. I mean it could be, sir. But, again, if you don't feel  
15 like making comments to me or the brig staff, you have your command.  
16 You have the request mast. I mean -- and these are all things that  
17 are covered when they go through the indoctrination phase. So, you  
18 know, honestly, sir, there's so many avenues for redress that -- you  
19 know, they just have to -- to do it. They just have to take  
20 advantage of it.

21 Q. Right. And then one of the other avenues he has is to talk  
22 to his mental health eval -- professionals, correct?

23 A. Well, I wouldn't say for redress. If he has a problem --

1 when I say that, sir, the avenues I'm talking about such as request  
2 mast, using a DD Form 510 asking to speak to me, contacting his  
3 command -- I'm just talking about problems in general in confinement  
4 -- looking for redress in that case. But, yes, he is entitled  
5 definitely to talk to Colonel Malone or whoever he wishes.

6 Q. Or even his attorney --

7 A. Yeah.

8 Q. -- to help him file maybe complaints?

9 A. Absolutely.

10 Q. Okay. And you also note that PFC Manning requested to have  
11 -- and you've testified on direct -- 18 names removed from his mail  
12 and visitation list. Is that correct?

13 A. I don't recall the amounts, but I know it was -- I know it  
14 was a fair amount that he removed.

15 Q. And when you first heard about this you were concerned  
16 about PFC Manning?

17 A. I mean there were already issues there. I think at the  
18 time he was removed -- he removed those things it was after -- I mean  
19 communication had already started to break down. It was after 2  
20 March and the events of that day. So that was just something else  
21 that kind of made -- that kind of alerted me.

22 Q. All right. And so you were concerned that he was removing  
23 people and that meant something to you?



1           A.    I mean I don't know if it's just wanting to isolate himself  
2 even from family. Because, again, sir, mail and visitation,  
3 recreation call, these are all things in my whole time in corrections  
4 that I know from experience that prisoners always look forward to.  
5 You know, if it's raining outside, it's like, hey, please have that  
6 indoor rec call or that kind of things. But, yes, that made me raise  
7 an eyebrow, sir.

8           Q.    All right. And how did you find out that PFC Manning  
9 removed people from his visitation list?

10          A.    The mail clerk; he had mentioned something 'cause he would  
11 have to submit the 510 to the mail clerk.

12          Q.    All right ----

13          A.    And I believe the staff may have also said something to me.

14          Q.    I'm handing you Appellate Exhibit 441N [handing the  
15 document to the witness].

16          A.    Okay.

17          Q.    Now this apparently is an email from -- initially from  
18 Lance Corporal Sanford telling you on 16 March about what PFC Manning  
19 has done, correct?

20          A.    [Looking at the document] Yes.

21          Q.    And after Lance Corporal Sanford emails you this, you  
22 forward the information to Colonel Oltman among others, is that  
23 right?

1           A.    I did, sir.

2           Q.    [Reading from the document] And your email reads, fyi, he  
3 did fill out a 510, but was annoyed he had to update the list. Oh,  
4 well. Is that what you wrote?

5           A.    I did write that, sir.

6           Q.    And that email doesn't seem concerned about PFC Manning  
7 removing people from his visitation list does it?

8           A.    No, that's because we had talked and they wanted -- you  
9 know, I just -- I had told them, hey, you know, I just have concerns  
10 about it. When I said, oh, well, I was referring to him being  
11 annoyed that he had fill out the chit. Because, again, I -- like I  
12 tried to explain to him on different occasions -- I tried to explain  
13 that it's important for us to have documentation. So my comment of  
14 oh, well, was not in response to anything but that. It was just my  
15 response to him being annoyed that he had to go through the trouble.  
16 'Cause on the chit he has to say exactly who he wants to remove. And  
17 then on the mail and visitation form itself he makes those changes.  
18 So that was -- you know, it wasn't that I didn't care -- you know, it  
19 was common sometimes that Colonel Oltman would call me after an  
20 email. So I'm sure that we had discussed it, you know. And I just  
21 said, hey, you know, obviously we can't tell him who to put on his  
22 visitation's or remove it. So -- but I do remember discussing that  
23 though.

1 Q. Isn't it true that PFC Manning was -- wasn't allowed just  
2 to remove people -- like two people. He was required to remove  
3 everyone he wanted to and then place back on a separate list the  
4 people he wanted to keep?

5 A. I believe on those sheets he may have crossed out --  
6 because that sheet -- it covers the mail and visitation.

7 Q. Right.

8 A. So for some he did not want the visitation but he still  
9 wanted mail. So the mail clerk could have made him fill out another  
10 form -- maybe if there was not enough room or you needed to make it a  
11 little bit more clear. But with us, we just like to make sure that  
12 that's that detainee's handwriting and those are the people -- it's  
13 not a think of him telling the guard, hey, Lance Corporal Sanford,  
14 can you take this person off? We won't do that.

15 Q. Well wasn't that why PFC Manning was annoyed 'cause he had  
16 to fill out a new 510? He couldn't just remove people; he had to  
17 fill out a new 510 form?

18 A. Well, again, sir, the 510s; these are requests for  
19 everything, whether it's to change a mail and visitation, get a  
20 magazine prescription[sic], that -- that's just the norm, sir. And,  
21 again, that's just for documentation so we can show, hey, an inmate  
22 asked for this and we gave it to him. But, again, the mail and  
23 visitation form is different than the DD Form 510. And that's where

1 their ad -- addresses and names and stuff would be located.

2 Q. Right, but when he was removing people he was required to  
3 basically update the entire form again then?

4 A. Pretty much to make the changes that he wanted.

5 Q. Okay. And you were -- were you aware that the majority of  
6 people that he removed were people who had never visited him to begin  
7 with?

8 A. To be very honest with you, sir, I didn't concern myself  
9 with that. I just concerned myself with why is he removing all these  
10 people. I mean ----

11 CDC[MR. COOMBS]: Yeah. And I'm retrieving from the witness  
12 what's been marked Appellate Exhibit 441N [retrieving the document  
13 from the witness], and handing the witness Appellate Exhibit 441O  
14 [handing the exhibit to the witness].

15 Q. Isn't the real reason you were concerned or the primary  
16 reason you were concerned about the removal of the visitors was  
17 because it may draw media attention?

18 A. That was one of my concerns because what happens is if they  
19 decide, hey, look, I don't want visits from somebody, we don't  
20 contact that person and say, hey, he just took you off his list.

21 Q. [Responded in the affirmative.]

22 A. So my concern was if one of those people showed up and  
23 they're told, hey, look, you cannot visit Manning, yes, I -- in my

1 mind I just had a concern that, you know, that would infuriate people  
2 -- infuriate people because we're not allowed to say, well, we'll  
3 make him put you back on.

4 Q. Right. And in particular you told Colonel Oltman that one  
5 individual in particular you were concerned about; David House, when  
6 he hears that he's not on the list, you said, it will be on the blogs  
7 very quickly. Do you see that?

8 A. [Looking at the document] Let me read through all that.

9 Q. Sure.

10 A. Yep, I see it, sir.

11 Q. And you see where you believe there PFC Manning's removal  
12 of people from his list might actually be a setup of the brig?

13 A. [Looking at the document] Let me read through it. Yeah, I  
14 said, [reading from the document] this weekend also coincides with  
15 the planned protest. And it may be a setup because for all protests  
16 and all other contingencies, the MPs call back to the brig to verify  
17 who's on the inmate's visitation list. Once he hears he's not on it  
18 I'm sure he'll be -- it'll be a dramatic event. And so ----

19 Q. And why'd you think it would be a dramatic event?

20 A. Well, for one, sir, House himself -- I know he visited a  
21 lot. So all of a sudden to be told he can't visit I'm sure there  
22 will be questions or it would be met with negative reaction. So, you  
23 know -- and the thing about it is when these things are put in the

1 media, of course, because we're not going to violate PFC Manning's  
2 rights and speak out and say, well, did you know this is what really  
3 happens? We're not going to do that. So for me it was just one of  
4 those things where I'm saying, hey, look, it maybe something -- I  
5 don't know -- I don't know for sure, but I'm not saying 100 percent  
6 he did that on purpose to cause trouble. No. Again, when you see  
7 things like this, you know of planned protests, you know that House  
8 comes to visit a lot, and because we know we cannot allow him to  
9 visit bec -- if he gets upset, but -- and because Manning said, no, I  
10 don't want visits from him, I -- that was just me saying, hey, look  
11 we've just got to be prepared if this things goes viral.

12 Q. In fact, you believe that it would appear that Quantico  
13 stopped David House's visits for no good reason -- that's what you  
14 were concerned about, right?

15 A. Right.

16 Q. And nowhere in your communication with Colonel Oltman on 16  
17 March do you express concern that the removal by PFC Manning of these  
18 people might be a -- a psychiatric problem with PFC Manning, correct?

19 A. No. Again, I didn't feel it could have been a psychiatric  
20 thing, I just said maybe, for whatever reason, he's not getting along  
21 with his family -- he just wants to isolate himself more, not  
22 necessarily, hey, this is a psychiatric issue.

23 Q. Would it surprise you to know that of the people he removed

1 only three of them had actually visited him?

2 A. Well, sir, I mean, honestly, I did not go through all that.  
3 My concern was why remove all those people. So maybe that was the  
4 case, sir.

5 Q. But if that were your concern; why remove all those people,  
6 wouldn't the natural thing to do would be to go to PFC Manning and  
7 say why did you remove all these people?

8 A. Yes I had a conversation with him, sir. Again, I made it  
9 clear that I'm not forcing him to change his mind. I just let him  
10 know that I noticed that because that's me letting him know that I'm  
11 communicating with the staff. So, yes, that was brought up briefly -  
12 - and I said, is everything okay? Yes, ma'am. And that was it.

13 Q. So you didn't ask him why he removed the 18 people?

14 A. Again, sir, at that point knowing he was still very  
15 agitated knowing that he did not like to be spoken to a lot, I just  
16 said, hey, I noticed this. Is everything okay? And he said, yes,  
17 ma'am.

18 Q. Okay. So you never found out from PFC Manning that only  
19 three of the people ever visited him?

20 A. No, sir.

21 Q. Did you express concern to Colonel Malone about PFC Manning  
22 removing names from his visitation list?

23 A. Whoever the psychiatric was that came in after that, that's

1 something I would discuss. Obviously I'd have to look to see who  
2 came in. But things like that is what I was talking about before  
3 when I said I would kind of give them updates on things that -- that  
4 was going on since the last visit. So I would have to -- have to  
5 look [looking through the document].

6 Q. Did you ever express concern or find out from Gunny  
7 Sergeant Blenis whether or not PFC Manning had a reason to remove the  
8 names?

9 A. I mean it -- it was discussed, sir. I mean -- obviously I  
10 believe he was on -- on one of the emails, but -- and I can't  
11 remember. I'd have to go through is counseling notes on one of the  
12 weekly reports to kind of see if he talked to him and what he said  
13 'cause I don't recall off the top of my head, sir.

14 [Pause]

15 Q. Did you note that PFC Manning was still receiving visits  
16 from family after removing people from his list?

17 A. Well, again, I would have to check, sir. I don't -- I  
18 don't recall. I would have to check and see.

19 Q. Can you go ahead and turn to Enclosure -- full Enclosure 22  
20 and turn to Page 96 of 109?

21 A. [Looking through the documents] What page was that, sir?

22 Q. Page 96 of 109.

23 A. [Looking through the documents] Okay.



1 Q. Do you see if any family visited him during that time  
2 period?

3 A. [Looking at the document] He had personal visits. But,  
4 again, I would -- I'm not clear on the dates that -- when he took  
5 those names off. So that's something I'd have to look at 'cause it's  
6 saying, yes, he had -- he had a personal visit. But, again, that --  
7 I don't know if that was before or after he chose to take those names  
8 off, sir.

9 Q. All right, if you turn to Page 99 of 109, do you see where  
10 Gunny Sergeant Blenis in his counselor's notes talks about the fact  
11 he asked about why friends and family were removed?

12 A. [Looking at the document] Right.

13 Q. And what does he say about that?

14 A. [Reading from the document] He said that SND stated that  
15 the majority of the individuals have not written letters or visited,  
16 so he removed them.

17 Q. Okay. And then obviously you -- you keep track of people  
18 who come, and so we could just -- if you want, let's go ahead and  
19 look at Page 108 of 109, so it would be the second to the last page.

20 A. [Looking at the document] Okay.

21 Q. Does he have any visits from friends or family during that  
22 time period?

23 A. [Looking at the document] He had two personal visits, sir.

1 Q. From family and friends?

2 A. [Looking at the document] Well a friend and his aunt --  
3 yes.

4 Q. Okay, so that would be family and friends, correct?

5 A. Yes, sir.

6 Q. Was PFC Manning removing people from his list that never  
7 visited him a reason why you kept him on MAX and POI?

8 A. Absolutely not, sir. I mean the thing is, again, when that  
9 happened it just kind of made me raise an eyebrow. But that's not a  
10 factor to say, okay, because you don't get visits from people --  
11 friends or family, we're going to make you a MAX.

12 Q. Well, I guess what I'm getting at is once you found out  
13 from Gunny Sergeant Blenis that the majority of the people that he  
14 removed had never visited him, were you now, in addition to not being  
15 concerned about the media interests, were you no longer concerned  
16 about PFC Manning's action of removing people?

17 A. I don't think I understand what you asked -- are you trying  
18 to ask me, sir. Can you repeat the question, please?

19 Q. Sure. Once you found out that PFC Manning removed people  
20 from his list that never visited him --

21 A. Okay.

22 Q. -- were you then no longer concerned that this was a  
23 potential sign of him going downhill and wanting to harm himself?

1           A.    I mean the concern was still there because of those people  
2 had visited before. So even though, yes, the majority of them did  
3 not visit -- and that's fine -- so I looked at that once I realized,  
4 you know, okay, most of them did not visit, but, again, sir, some of  
5 them visited and visited regularly. I don't -- you know, that's  
6 still kind of, hum, but that's his -- you know, it made me think.  
7 But, again, that's his choice.

8           Q.    All right. So I guess, if I understand your answer then,  
9 it was still a concern that he removed people that had visited him?

10          A.    Right.

11          Q.    And did you address that concern with Colonel Malone?

12          A.    Again, sir, -- yeah, when he -- again, when he came in --  
13 I'm pretty sure he may have been the provider -- but, yes, I just  
14 said that. But ----

15          Q.    And what did Colonel Malone say back to you then?

16          A.    To be honest with you, I don't recall his response.  
17 Sometimes with him, you know, I'd brief him on things, and he'll just  
18 say, oh, okay. And that was typically his response unless I asked  
19 him a direct question seeking more knowledge. But I don't recall  
20 exactly what he said, sir.

21          Q.    And did you address the concern directly with PFC Manning?

22          A.    Again, sir, when I talked to him about it, I didn't go into  
23 detail. I simply asked -- I let him know that I was aware that that

1 had took place. And I asked if everything was okay, and he told me,  
2 yes. He -- you know -- again, he didn't go into details, sir, and,  
3 you know, I just didn't want to keep talking to him. I know that's  
4 something that irritated him.

5 Q. Okay. Now if you look at the mental health eval done by  
6 Colonel Malone on 18 March.

7 A. [Looking through the documents] Okay.

8 Q. Do you see that on that date he indicates that PFC Manning  
9 did not need to be segregated?

10 A. [Looking at the document] Okay.

11 Q. Is that right?

12 A. That's right.

13 Q. And that PFC Manning was a low risk of self-harm?

14 A. That's correct.

15 Q. He also states that PFC Manning's anxiety disorder remains  
16 stable in remission?

17 A. That's correct, sir.

18 Q. And despite that, based upon the board's recommendation,  
19 you kept PFC Manning in MAX and POI?

20 A. That's correct, sir.

21 Q. There's a box that -- it's entitled or titled apparently  
22 stable mental condition on the C&A board eval.

23 A. Okay, which [looking through the documents] ----

1 Q. So if you go to the C -- any C&A board eval.  
2 A. Okay.  
3 Q. Do you see that on the lower custody classification?  
4 A. [Looking at the document] Yes.  
5 Q. That box is never checked on any of these C&A board eval --  
6 eval's. Do you know why?  
7 MJ: Which box are you talking about?  
8 CDC[MR. COOMBS]: The box, ma'am, that says apparently stable  
9 mental condition --  
10 MJ: Okay.  
11 CDC[MR. COOMBS]: -- it's on ----  
12 MJ: Got it.  
13 CDC[MR. COOMBS]: Yes, ma'am.  
14 A. [Looking at the document] To be honest, sir, the way we use  
15 that sheet, if we were looking to reduce that custody from MAX to  
16 medium in, then we would focus on -- the focus would shift to  
17 lowering -- to the lower custody factors. So I understand your  
18 question because you're saying, okay, that's what the doc' put, how  
19 come you didn't put that? But those factors are different because  
20 they're mostly used for when you're looking at reducing that custody.  
21 So -- from MAX to medium in or for -- or something like that -- or  
22 medium in to medium out; those factors would be relevant for them.  
23 And that's what they -- they're being used for, sir.

1 Q. Okay, so if I understand you correctly; if the -- if the  
2 focus of the board is to try to reduce the person's custody status  
3 they will then check boxes on the lower -- on the custody factors  
4 that would support a lower classification?

5 A. It that's -- if that's what the counselor wanted, sir, yes.

6 Q. And if the focus of the counselor is not to lower but to  
7 maintain or even raise they would only check the boxes on the higher  
8 classification --

9 A. That applies to the higher --

10 Q. -- custody classification?

11 A. -- classification, sir.

12 Q. So I guess my initial impression that you would check boxes  
13 on both sides if they applied and then you would use that as how you  
14 would weigh out your recommendation, that's not how the process  
15 worked?

16 A. No, sir. Again, if they're recommending to lower that  
17 custody then they check off as many factors on the lower custody side  
18 as much as possible. And if the counselor feels, hey, look, based on  
19 what I've observed and what I know, I recommend that they remain MAX,  
20 you know, then they look at the factors that deal with why he should  
21 be a MAX custody.

22 Q. But then he wouldn't check any of the lower custody boxes?

23 A. Not if he's not putting him up for -- if he's -- not if

1 he's not recommending to be reduced from MAX to medium in, sir. But,  
2 again, these reports are briefed to the board. There were a couple  
3 of times when either the doc's came really, really late or something  
4 like that and they didn't really -- may have gotten to read it ahead  
5 of time, but for the most part, sir, that's -- that's how it worked.

6 Q. Okay. Can you turn to the 25 March 2011 C&A board report?

7 A. [Looking through the documents] Yes, sir.

8 Q. Okay, so on this week the same boxes are ticked again of  
9 low tolerance of frustration, poor home conditions, length of  
10 potential sentence, correct?

11 A. [Looking at the document] Yes, sir.

12 Q. And you have the same annotation about PFC Manning  
13 isolating himself and also removing names from his visitation list,  
14 correct?

15 A. [Looking at the document] Okay, let me take a look at  
16 something --

17 Q. Sure.

18 A. -- on the continuation sheet?

19 Q. Sure.

20 [Pause while the witness looked at the document.]

21 MJ: Which date are we on?

22 CDC[MR. COOMBS]: 25 March 2011, ma'am.

23 [Pause]

1           A.    Yes, the note is here -- first beginning to isolate  
2 himself, yes.

3           Q.    And also removing names from his visitation --

4           A.    Right.

5           Q.    -- list?

6           A.    Right.

7           Q.    So this is after getting, I guess, the -- from Gunny  
8 Sergeant Blenis the reason why PFC Manning removed people but it's  
9 still being placed down as apparently a concern by the C&A board, is  
10 that correct?

11          A.    I mean, these are just notes, sir, again, for the board  
12 members to consider. He explained obviously that most of the people  
13 on that list did not visit anyway. But, again, this is just  
14 something for the board members because, again -- because the board  
15 members change from time to time, that's one reason why you'll see a  
16 lot of the same notes on there.

17          Q.    All right. Can you now turn to the 1 April C&A board  
18 report?

19          A.    [Looking through the document] Okay.

20          Q.    Again, here the usual boxes are checked; the low tolerance  
21 of frustration, poor home conditions, length of potential sentence,  
22 right?

23          A.    [Looking at the document] Yes, sir.



1 Q. And a new box is added; broken down communication with  
2 staff?

3 A. Right.

4 Q. In the remarks section it says [reading from the document]  
5 SND has been very guarded with staff?

6 A. Yes, sir.

7 Q. And then if you look at the continuation sheet it says that  
8 [reading from the document] SND has -- or remains withdrawn and  
9 continues to not engage in discussions. SND has recently been  
10 counseled about his attitude and conduct towards staff. Do you see  
11 that?

12 A. [Looking at the document] Yes, sir.

13 Q. And I know we haven't covered this yet, and we will, but  
14 I'd like to backtrack just for a moment to 2 March 2011, okay?

15 A. [Looking through the documents] Okay.

16 Q. On that day PFC Manning was speaking with Master Sergeant  
17 Papakie about his frustration with POI and MAX, correct?

18 A. Yes, sir.

19 Q. And he made a comment about his underwear being something  
20 that, if he wanted to, he could use to harm himself?

21 A. About it being the most dangerous piece from what I recall,  
22 yeah.

23 Q. Now fast forward to the 1 April, approximately a month

1 later, the C&A board notes that PFC Manning is guarded with staff,  
2 right?

3 A. [Looking at the documents] Yes, sir.

4 Q. And then you, in fact -- I believe it's you -- write on the  
5 C&A board [reading from the document] SND's mood has been somber;  
6 there is no detailed conversations as in the past; no light contact  
7 lately; has not requested any special accommodations; and has not  
8 been appearing before the C&A board to give input and make a  
9 difference.

10 A. Right.

11 Q. Is that what you wrote?

12 A. Yes, sir, it is.

13 Q. And this is part of what you considered, obviously, in  
14 making your ultimate determination to keep him in MAX and POI?

15 A. Yes -- part of -- for those things listed there, yes, sir.

16 Q. And you said you -- and we've previously covered -- you  
17 remember distinctly one conversation where you had to tell PFC  
18 Manning to be careful in how he was speaking to you because you were  
19 a commissioned officer and his tone was slightly disrespectful?

20 A. That's correct, sir. But I also told him -- I said, I  
21 don't carry things over. You understand that you were disrespectful.  
22 He said -- he acknowledged that. He apologized. And from then on  
23 the conversation went back to being normal. So definitely it wasn't

1 a think of me attacking him and then being very short or -- or -- you  
2 know, brash with him after that point. So I want to make that very  
3 clear to you.

4 Q. And that's fine. But you did inform him that if he  
5 continued to be disrespectful that that could wind up in a report  
6 that could impact his ultimate sentence if he were to be found  
7 guilty?

8 A. I told him if he continues to be written up, whether it's  
9 disrespect or something else, I said, yes, all those things are  
10 annotated. And if we're requested to provide a progress report, we  
11 have to put those things in there. So I, again, was just trying to  
12 help him and let him know frustration; that's an emotion I  
13 understand. And I don't have an issue with you being frustrated, but  
14 I do have an issue with you raising your voice and being  
15 disrespectful to me.

16 Q. Okay. And when PFC Manning appeared before the C&A board  
17 on 21 January, he made comments that ultimately used against him,  
18 correct?

19 A. Well, I wouldn't go as far as to say used against him. It  
20 made the board members feel uneasy.

21 Q. Well, he made -- okay, we'll go with that then. He made  
22 comments that made the board members feel uneasy --

23 A. Right.

1 Q. -- and obviously impacted their recommendation?

2 A. I'm sure it did.

3 Q. And when he appeared before the board on 25 February 2011,  
4 and reiterated certain comments it was annotated that he didn't bring  
5 any new issues for the board -- that they didn't already know?

6 A. Right.

7 Q. And you're using now the fact that PFC Manning is guarded  
8 with the staff as a factor -- in one -- all of the factors that  
9 you're considering when making the decision of MAX and POI?

10 A. Yes, sir, decreased communication. This is one of the  
11 things, again, it's no necessarily because it's decreased  
12 communication I'm making him or maintaining the MAX, sir. Again, the  
13 whole POI and the getting him to provide honest open communication,  
14 that is difficult when he is guarded; he's not talking as much. It's  
15 kind of difficult for us to achieve that -- that type of rapport.

16 CDC[MR. COOMBS]: Okay, I'm retrieving from the witness  
17 Appellate Exhibit 4410 and 441F [retrieving the documents from the  
18 witness], and handing the witness Appellate Exhibit 441H [handing the  
19 document to the witness].

20 Q. Now you note that communication has been degrading at PFC  
21 Manning's choosing, correct?

22 A. [Looking at the document] Let me read the email, sir, to  
23 make sure that that's what I said.

1 Q. Okay.

2 [Pause while the witness read the document.]

3 A. Okay, yes, I see it.

4 Q. All right. And you're obviously using the fact that he's  
5 choosing not to appear to the C -- in front of the C&A board as a  
6 factor also keeping him in MAX and POI, correct?

7 A. Well, I'm using that to show, hey, look, he's not appearing  
8 to say -- give clear communication -- honest communication to those  
9 tough questions that they're asking him. So, again, that's one of  
10 the things I'm looking at to say, hey, look, he's not using the  
11 avenues that are before him to -- to express this is why I need to be  
12 off of POI. So. I mean, after a while for me it also became a  
13 little frustrating to me because, for me, I wanted that  
14 communication. And I've told him that more than once. Again, like I  
15 said, when I had him in my office without guards present, just  
16 thought maybe a change of scenery -- that might, you know, get him to  
17 open up. But -- you know, again, it's just everything put together,  
18 sir.

19 Q. Let's look at the email that you have in front of you --  
20 the email to Colonel Oltman.

21 A. [Looking at the document] Okay.

22 Q. In there you discuss some of the reasons you're keeping PFC  
23 Manning in MAX and POI for that week, correct?

1           A.   [Looking at the document] Yes, sir, I was just briefing him  
2 on -- on the board. Yeah.

3           Q.   And you said that you spoke to Lieutenant Colonel Russell,  
4 and your interpretation of his medical opinion was that "Basically  
5 Manning is the reason why he's still in POI."

6           A.   That's what he told me, sir.

7           Q.   And Lieutenant Colonel Russell also explained to you that  
8 PFC Manning feels like whatever he says gets distorted or blown out  
9 of proportion. Do you remember that?

10          A.   [Looking at the document] Let me read that part of the  
11 email. One second, sir.

12          [Pause while the witness read the document.]

13          A.   I know that part that you're referring to came up with me  
14 as well again when we went back to filling out the voluntary  
15 statements for him not wanting rec call. So -- but, again, that  
16 could have been something that, you know, was -- in talking to him  
17 that Lieutenant Colonel Russell could have said as well.

18          Q.   Could the fact that PFC Manning felt that anything he said  
19 or did got distorted or blown out of proportion explain why he became  
20 very withdrawn to the staff and yourself?

21          A.   Well, I mean, sir, to be honest I didn't see anything where  
22 he made a statement that, you know, the guard twisted his words or  
23 came in and briefed me differently. And, again, that's one reason

1 why every day more than -- on more than one occasion throughout the  
2 day I would go down there, talk to detainees -- prisoners. But -- I  
3 mean --

4 Q. Well we'll talk --

5 A. -- I don't ----

6 Q. -- about the 2 March incident, but isn't that an example  
7 where something he said might have been distorted or blown out of  
8 proportion?

9 A. Well, in his opinion, sir, he could feel like that. But,  
10 again, in a correctional facility comments like that cannot be taken  
11 lightly when there's a history of suicidal gestures or ideations, you  
12 know. And when we see such big changes in behavior -- so --  
13 certainly, sir, he could feel like, well, you know it, I'm just not  
14 going to say anything now because I made a comment, it was sarcastic  
15 and now this is where it lands me. But, again, my responsibility  
16 given everything I knew in his history, I just couldn't take it  
17 lightly.

18 Q. If you could now look at the 8 April C&A board report.

19 A. [Looking through the documents] Okay, sir.

20 Q. The following boxes are ticked here; low tolerance of  
21 frustration, poor home conditions --

22 A. [Looking at the document] Okay.

23 Q. -- and the length of potential sentence, that's not checked

1 right?

2 A. [Looking at the document] No, sir, I don't see that.

3 Q. That was probably an oversight?

4 A. And innocent mistake I would say, sir, because, again, his  
5 charges had not changed to where it was very different -- maybe to  
6 something much lower like 86 or 92. So that box should have been  
7 checked.

8 Q. And there's still a handwritten box that says broken down  
9 communication with staff?

10 A. Okay, sir.

11 Q. And who signs for this one?

12 A. There's not a signature there, sir, but I'm pretty sure I  
13 was on leave. Every day that I was at work I signed those C&A  
14 sheets. And --

15 Q. So there's no

16 A. -- to be very honest --

17 Q. -- signature at all on that one?

18 A. What's that?

19 Q. Is there a signature at all for the approval?

20 A. Not on the bottom block where my box is, sir, no.

21 Q. And I guess that would be a-typical, right?

22 A. Very, sir, 'cause, again, every other one either had my  
23 signature of Master Sergeant Papakie's. But, again, I recall being



1 on leave quite a bit last year. So it could have been when I was  
2 out.

3 Q. Now going back to your -- do you recall actually talk --  
4 talking with Colonel Oltman about the fact that there's been no  
5 positive change in terms of interaction with brig staff and PFC  
6 Manning?

7 A. I recall some conversations. But, again, you know, that  
8 was just me keeping my chain informed of what's going on. But, yeah,  
9 I do recall just saying to him, you know, this is still occurring,  
10 and we're just trying to get him engaged.

11 Q. Okay. And do you recall -- with him -- at least telling  
12 Colonel Oltman that PFC Manning did interact well with chasers but --  
13 people who took him out but not with the brig staff?

14 A. Yes, sir, I believe that was one of the points I raised is  
15 that the psychiatrist -- I don't know -- other people who will come  
16 in -- you know, I noticed that there would be a difference -- one of  
17 the things I used to do was question the chasers just to make sure,  
18 hey, did you guys feed him chow on time? Where there any problems  
19 when he was being transported -- that kind of thing. And I would  
20 also ask Manning himself the next time I would see him or whatever  
21 the case is. But it was noted that from the chasers that everything  
22 was good. He wasn't -- you know, wasn't really quiet or withdrawn or  
23 anything.

1 Q. All right. So other than the brig staff, you saw it with  
2 the forensic psychiatrist and with people who were taking him out for  
3 meetings, probably with myself, that he was talkative with them?

4 A. Well, I didn't obviously see it -- I didn't go with him on  
5 those runs. But just, again, in talking to 'em just to find out,  
6 hey, how have things been going? Is everything good? Is he getting  
7 his chow on time; that kind of thing? They would say, yeah,  
8 everything's good. You know, he speaks up; he lets us know what he  
9 needs.

10 Q. Can you look at the 15 April C&A report?

11 A. [Looking through the document] Yes, sir.

12 Q. And you see there, again, back to the usual boxes of low  
13 tolerance of frustration, poor home conditions, and length of  
14 potential sentence, correct?

15 A. [Looking at the document] Yes, sir.

16 Q. And you write in your remarks [reading from the document]  
17 SND remains guarded. Spoke with SND on the 11th of Mar -- of April  
18 regarding being more open and engaging in communication in efforts to  
19 adjust handling, but no change has been seen. SND has not spoken to  
20 me about coming off of POI, although I explained what he needed to do  
21 so -- or needed --

22 A. Needs to do, yeah.

23 Q. -- needs to do, right?

1           A.    Yes, sir.

2           Q.    And by saying what he needs to do you mean to speak open  
3 and honestly with you to convince you that he shouldn't be on POI?

4           A.    That's right. And even his counselors, not just me. I  
5 tried telling him, hey, look -- 'cause normally prisoners -- they'll  
6 find somebody to cling to. It might be a particular duty brig  
7 supervisor they like. Most times it's a counselor though because  
8 they know the big role that the counselors play. But, you know, I  
9 told him what he needed to do in terms of his interactions with me  
10 and the staff alike.

11          Q.    And speaking of the counselor; if you'd turn the page --  
12 the DD Form 2719 --

13          A.    [Looking through the document] Okay.

14          Q.    -- do you see where it states there that -- with regards to  
15 his counselor he's been "More open to discussion this week and  
16 appeared to be a good mood. He was calm and relaxed and seemed very  
17 comfortable when speaking."

18          A.    Okay.

19          Q.    Do you see that?

20          A.    [Looking at the document] Yes, sir.

21          Q.    And you told the defense that at the end of the day you  
22 didn't care if he opened up to the brig staff, but PFC Manning had to  
23 keep open lines of communication with two people; that would be

1 yourself and with the counselor, is that right?

2 A. I don't recall saying that. I know I said, hey, look, the  
3 role of a counselor is very different than the guards that are  
4 actually posted in special quarters. And that, you know, he might  
5 not like everybody or have the greatest relationship, but at least --  
6 yes, his counselor and myself. But, again, by no means was I saying  
7 or implying that, well, screw the rest of the guards, only speak to  
8 your counselor or me -- because, again, his counselor's not at work  
9 24 hours a day, and we get a lot of feedback from the security  
10 section. So -- but I did remember saying of all the -- of the two  
11 people that can advocate and really make positive changes for him --  
12 those would be the two.

13 Q. Okay.

14 MJ: Who would be the two?

15 WIT: The counselor and myself, ma'am.

16 Q. All right, I want to talk now specifically about what  
17 happened on 2 March 2011, okay?

18 A. Okay, sir.

19 Q. Now on that day Master Sergeant Papakie was talking to PFC  
20 Manning, is that right?

21 A. That's right, sir.

22 Q. And PFC Manning, as we covered, expressed frustration with  
23 his current conditions?

1           A.    Right.

2           Q.    And he told Master Sergeant Papakie that the restrictions  
3 were absurd, and that if he wanted to harm himself the most dangerous  
4 thing he had was perhaps the elastic in his underwear?

5           A.    Or words to that effect, sir.

6           Q.    And you were told that PFC Manning was smiling when he said  
7 this, right?

8           A.    Well, like smiling or smirking -- something like that.

9           Q.    And your response was to order his underwear to be removed  
10 at night after that, correct?

11          A.    That's correct, sir.

12          Q.    Now you didn't order him onto suicide risk status, right?

13          A.    That's correct.

14          Q.    And that -- if you did do that it would have required a  
15 doctor and the doctor's concurrence to keep him there?

16          A.    On that status of SR, that's correct.

17          Q.    Instead you increased the special handling instructions  
18 under POI, is that right?

19          A.    Yes, sir, I made that adjustment, yes.

20          Q.    And if you had ordered PFC Manning to SR on 3 March and  
21 Colonel Malone recommended only POI on 3 March then you would have  
22 had to have taken PFC Manning off of SR on 3 March?

23          A.    That's correct, sir.

1 Q. Now from your standpoint as a brig OIC, what is your  
2 understanding on how long you can wait to take somebody off of  
3 suicide watch if the doctor tells you he doesn't need to be on  
4 suicide watch?

5 A. I mean, there's no timeframe. They tell you that you  
6 should take the person off, but me personally, I do it the -- if the  
7 day the doctor says it, I would do it.

8 Q. Yeah ----

9 A. But, again, that's just me.

10 Q. And don't they -- doesn't the SECNAV actually say the words  
11 "shall be taken off"?

12 A. I think it says shall be returned to quarters or something  
13 like that.

14 Q. Okay. And so from your interpretation -- and this is on  
15 Page 106 of 388 -- that's right here [pointing to the documents in  
16 the witnesses' possession].

17 A. [Looking at the document] Oh, okay.

18 Q. And I'm showing you Enclosure 47 of Appellate Exhibit 258.

19 A. All right.

20 Q. For your interpretation of when it says [reading from the  
21 document] when prisoners are no longer considered to be a suicide  
22 risk by medical officers they shall be returned to appropriate  
23 quarters. Would you do that the same day?

1           A.    I would, sir.

2           Q.    And why?

3           A.    Again, you know, for one, he has to be removed. But I

4 would just do it because, again, the doctor says he's not suicidal;

5 he needs to be removed. Because we clearly understand that, you know

6 -- comes with, you know, a lot of extra -- the extra requirements,

7 you know, guards sitting in front of your cell; that kind of thing.

8 And for anybody, whether you're in confinement or not, somebody

9 sitting there all day watching you is unsettling.

10          Q.    Right.

11          A.    So for me, I would not -- I would do it right away.

12          Q.    Now have you ever had an instance where the doctor has said

13 the detainee is not a suicide risk but you felt the detainee was and

14 you kept him on suicide risk?

15          A.    I haven't had that in my experience, sir, to be honest with

16 you.

17          Q.    Have you ever seen that in your 16 plus years?

18          A.    It's hard to say because sometimes at the level where they

19 are a CO, you know, and dependent on what my rank was at the time and

20 what my jobs where, that's not something I would have -- you know

21 what I mean --

22          Q.    Right.

23          A.    -- readily available unless I was actually that dorm

1 supervisor or something, but to be very honest to go back and say for  
2 sure -- I would not sit here and say that it has never been done, but  
3 I just don't know for myself. But I just know from my personal  
4 experience, no.

5 Q. Okay. Now Colonel Malone, as we know, evaluated PFC  
6 Manning on 4 March --

7 A. [Responded in the affirmative.]

8 Q. -- and he concluded that PFC Manning's statement about the  
9 underwear was not due to a mental disorder, is that correct?

10 A. Right.

11 Q. He actually concluded that the statement did not mean he  
12 wanted to commit suicide, but was rather part of his process of  
13 intellectualizing the conditions of confinement that he was in,  
14 right?

15 A. He may have said that, sir. I'd have to look at it.

16 Q. Well, you received Colonel Malone's evaluation, correct?

17 A. [Looking through the documents] Okay, but that actual  
18 comment is not on this. He may have -- but I do remember him  
19 discussing it, sir. It's not here, but I do remember -- remember him  
20 saying that --

21 Q. All right, and --

22 A. -- or something along those lines.

23 Q. -- and when Colonel Malone said that to you then did that



1 cause you to be less concerned about the underwear statement?

2 A. No, sir. And this is why -- and, again, it's just a  
3 difference between Colonel Malone and myself. The thing about it is,  
4 you know, if you had already by going on the C&A board looking at the  
5 statements you wrote on your intake form, if you already know that  
6 these are things that concern us -- I mean -- you know, making that  
7 comment, whether it was to intellectualize something or just whether  
8 it was sarcasm, whatever the case is, again, with everything we have  
9 to look at, I just cannot take that lightly. And I -- you know,  
10 again, when I speak to Doctor Malone or even Doctor Russell, they  
11 understand my concerns. I mean, obviously I'm not trained to say  
12 this comment means this. Or this is what he meant by that comment.

13 Q. But did Colonel Malone's professional opinion that this  
14 comment wasn't a statement to harm himself, did that at all comfort  
15 you?

16 A. I mean to be honest, sir, no really. Because the point I  
17 try to drive home to these providers is that when you see them on  
18 that one day, you make that determination on that one day.  
19 Unfortunately for us we don't just do things in snapshots of time.  
20 We look at totality. We look at the information in the book. We  
21 look at behavior; that kind of thing. So it's not that I was  
22 disrespecting him or gaffing him off, sir. Again, that was one of  
23 those points just trying to get past, okay, if you like to

1 intellectualize things, please find a different way to do it because  
2 it doesn't make me feel comfortable.

3 Q. And can you reconcile then for me your previous testimony  
4 and also in your email where you said that people who are going to  
5 harm themselves are not going to tell you how they're going to do it?

6 A. I may have said something to that effect; they're not going  
7 to come out and say, hey, I want to kill myself.

8 Q. Right. So if someone's not going to tell you how they're  
9 going to do it or they're going to harm themselves, then why wouldn't  
10 you look at this statement and say that he's not really telling us  
11 he's going to harm himself with it -- that people don't do that?

12 A. Sir, again, I look at he said -- you know, if he wanted to,  
13 he could have. So the way I kind of looked at it, you know, maybe  
14 that thought crossed his mind a time or two. I mean, I see what  
15 you're getting at, but at the end of the day, yes, he -- remember he  
16 did not come out and say I am going to hurt myself or kill myself  
17 with the waistband in my underwear. But, again, just that notion of,  
18 well, if I really wanted to do it, I could do it again. At that time  
19 -- because at that very second -- I didn't speak to Colonel Malone --  
20 I don't know that he's -- okay, that's how he intellectualizes with  
21 himself or whatever the case is.

22 Q. Okay, did there come a time though where maybe after the  
23 first week or the second week or even the third week where you're

1 removing the underwear nightly that you said maybe I don't have to do  
2 this anymore?

3 A. Well, again, sir, had I see positive changes -- if I would  
4 have seen something different, if he was speaking to me. Yes, I was  
5 open to that. I told Manning that on more than one occasion. So,  
6 again, when I expressed, hey, you need to let me know what's going  
7 on, whether you -- you -- you want to submit a DD Form 510, or  
8 whatever the case. And certainly if his conditions were that harsh,  
9 he could have went above my head, sir, or to his command. And by all  
10 means, I welcome anybody come into the brig to take a look for  
11 themselves. But ----

12 Q. He did file a 138 complaint about it, right?

13 A. Right. But, again, that was, you know, kind of -- that  
14 wasn't right away when again it was frustration and a breakdown in  
15 communication. Yes, when -- he filed different ones, but the one  
16 with me was in reference to the issue on 2 March. But, again, any  
17 problems that he had before that that I was not aware of was not  
18 brought to my attention as far as him telling the command.

19 Q. Now Captain Haberland contacted you on that day that you  
20 decided to remove PFC Manning's underwear, correct?

21 A. I don't know if it was that day. I can't remember. It  
22 could have been that day or the next day. But I do remember talking  
23 to him, sir.

1 CDC[MR. COOMBS]: I'm showing the witness what has been marked  
2 441P [handing the document to the witness].  
3 WIT: Okay.  
4 Q. And Captain Haberland at the time was one of the trial  
5 counsel for the case, correct?  
6 A. Yes, sir, he was.  
7 Q. And on that day he -- he said that he heard that you put  
8 PFC Manning on suicide watch?  
9 A. Right.  
10 Q. And you indicated that no you didn't -- you didn't put him  
11 on suicide watch?  
12 A. That's right.  
13 Q. At that point you didn't tell Captain Haberland initially  
14 about your order to remove PFC Manning's underwear though, right?  
15 A. [Looking at the document] Let me take a look at the email,  
16 sir.  
17 [Pause]  
18 A. Not initially, sir, but in the other email traffic I did  
19 discuss that.  
20 Q. Yeah, and it was only after Captain Haberland said he heard  
21 that PFC Manning's underwear was removed that you told him about  
22 that, correct?  
23 A. That's correct, sir.

1 Q. And you said in summary, PFC Manning stated he did not  
2 understand the POI status since he gets to keep his underwear with  
3 the waistband, which is the most dangerous piece?

4 A. Right.

5 Q. And you also said in my opinion this means he at least  
6 thought about it?

7 A. Right.

8 Q. And you further said that it's very easy for me to defend  
9 my position on this matter than to explain a suicide or an attempt?

10 A. That's correct, sir.

11 Q. Now on 4 March 2011, Colonel Oltman asks you to synopsise  
12 the rationale for your decision, correct?

13 A. I do recall that, sir.

14 CDC[MR. COOMBS]: And I want to again just highlight what you  
15 wrote at least on March 17th, so I'm handing you Appellate Exhibit  
16 441L [handing the document to the witness].

17 WIT: Okay.

18 Q. And on March 17th, again, you noted in your email to  
19 Colonel Oltman "It goes back to what I have been saying, anyone who  
20 wants to kill themselves will not give signs or do a memo for  
21 everyone to see."

22 A. Right.

23 Q. See that?

1           A.    That's right, sir.

2           Q.    And by this I imagine what you meant is that detainees

3 don't tell you that they're going to commit suicide?

4           A.    That's right, sir.

5           Q.    And they don't tell you how they're going to commit

6 suicide?

7           A.    That's correct.

8           Q.    Even though you've been saying this to everybody and you

9 believe that -- and at least in this instance that when PFC Manning

10 made his comment about his underwear, he was at least thinking about

11 committing suicide?

12          A.    And that's -- that he may have thought about it, sir. And

13 that's just my opinion.

14          CDC[MR. COOMBS]:   All right. I'm retrieving from the witness

15 Appellate Exhibit 441L and 441P [retrieving the documents from the

16 witness].

17          Q.    I want to talk to you now just real briefly about the

18 SECNAV instruction, okay?

19          A.    Okay, sir.

20          CDC[MR. COOMBS]:   I'm going to hand to you Appellate Exhibit

21 47 -- excuse me, AE 47 -- Enclosure 47, sorry, of AE 259. And it's

22 Page 105 of 388 [handing the document to the witness].

23          WIT: [Looking through the document] Okay.

1 Q. Now you cited to Colonel Oltman the provision you believe  
2 gave you the authority to remove PFC Manning's underwear, correct?  
3 A. Yes, sir.  
4 Q. And the provision you cited was the provision under 5(B),  
5 is that correct?  
6 A. As far as the authority to remove his underwear? I don't  
7 believe that's covered in (D)[sic]. Let me double-check -- oh, on  
8 the next page -- yes. [Reading from the document] May direct removal  
9 of the prisoner's clothing when deemed necessary.  
10 Q. And that was the provision that you used as your authority  
11 to do what you were going to do, right?  
12 A. Yes, sir.  
13 Q. Now there's -- in this section there are Sections A, C and  
14 D as well, correct?  
15 A. [Looking at the document] A, B and -- yes, sir.  
16 Q. And all these sections are under the heading of Suicide  
17 Risk?  
18 A. Yes, sir.  
19 Q. So Section B applies when you're dealing with a suicide  
20 risk, correct?  
21 A. [Looking through the document] Yes, sir.  
22 Q. So, in fact, the first sentence of Section B says, which  
23 you cite, is [reading from the document] prisoners who have

1 threatened suicide or have made a suicidal gesture but who are found  
2 fit for confinement may be placed in a category of suicide risk or  
3 observation, correct?

4 A. That's correct, sir.

5 Q. And all the stuff that follows deals with prisoners who  
6 have been placed in the category of suicide risk?

7 A. That's correct, sir.

8 Q. The authority to remove clothing comes under the category  
9 of suicide risk?

10 A. Right. But it also -- there's another part of the SECNAV  
11 where they talk about POI and it again mentions that. So it's not  
12 just exclusive only on SR.

13 Q. The authority that you cited was this provision.

14 A. Yes, that I may direct removal of the clothing, yeah.

15 Q. So that was the authority you were relying upon under the  
16 SECNAV?

17 A. Under the SECNAV instruction, yes, sir.

18 Q. Do you remember receiving an email from CW5 Galaviz asking  
19 you questions about the decision to remove PFC Manning's underwear?

20 A. I believe that was in a phone call, sir. I don't recall  
21 him emailing me directly. I'd have to take a look.

22 CDC[MR. COOMBS]: I'm handing you Appellate Exhibit 441K  
23 [handing the document to the witness].



1 Q. Do you see that?

2 A. [Looking at the document] Yes, sir.

3 Q. And that is an email from CW5 Galaviz to you, correct?

4 A. That's correct, sir.

5 MJ: This is 441 what?

6 CDC[MR. COOMBS]: Quebec. I'm sorry.

7 Q. And in this email Chief Galaviz is talking to you about the  
8 fact that he saw an Early Bird article, and he wants to find out  
9 about the removal of the underwear, is that right?

10 A. Right. [Reading from the document] For either Master  
11 Sergeant or myself to give him a buzz, yes, sir.

12 Q. And did you speak with him?

13 A. I did, sir.

14 Q. And what'd you tell him?

15 A. Well, when he asked me about it, sir, I pretty much  
16 explained to him, yes, those reports are true. I said the thing  
17 about it is based on everything I have; his history -- everything I  
18 looked at, I could not take that comment lightly. Now did he say I'm  
19 going to kill myself? No. He made a suicidal gesture like trying to  
20 do something in his cell like that time? No he did not. So, again,  
21 for me taking that comment with the history that he has, I just did  
22 not feel that that was something that could go unnoticed. And I  
23 explained that to him -- I said for me -- I know what -- with --

1 people automatically kind of play taking the underwear -- they  
2 automatically line that up with SR. But, again, in POI -- it's  
3 mentioned somewhere else in the SECNAV as well where clothing can be  
4 removed at any -- when deemed necessary. But, again, for me I did  
5 not feel like, you know, his underwear should be taken all day. I  
6 mean at night obviously; reduced visibility, less staff up, these  
7 were the things I was thinking about when I did that. So I explained  
8 that to him. And I just explained that at that time he didn't  
9 threaten -- to me he didn't say well I'm going to kill myself or make  
10 a suicidal gesture.

11 Q. Okay. And then do you recall Lieutenant Colonel Wright  
12 sending an email to Colonel Oltman about the matter?

13 A. Yes, sir, I recall that.

14 CDC[MR. COOMBS]: I'm retrieving from the witness 441Q  
15 [retrieving the document from the witness], and handing the witness  
16 Appellate Exhibit 441R [handing the document to the witness].

17 WIT: Okay.

18 Q. Now Lieutenant Colonel Wright sent an email saying  
19 basically that you're not allowed to remove underwear unless you put  
20 someone in suicide risk, is that right?

21 A. [Looking at the document] He said they -- to take --  
22 roughly that's what he's saying, sir.

23 Q. And you didn't agree with that interpretation though,

1 correct?

2 A. I had a difference of opinion, sir.

3 Q. And, in fact, after you received Colonel Malone's report  
4 saying that PFC Manning's comment did not mean he would commit  
5 suicide, you pointed out, at least in your mind, the wisdom of your  
6 approach to Master Sergeant Papakie. Do you remember that?

7 A. I pointed out what? Say that again, please, sir?

8 Q. The wisdom of your approach of just simply taking the  
9 underwear from PFC Manning but not placing him in suicide risk?

10 A. Yes, that was something that I discussed with Master  
11 Sergeant Papakie and Master Sergeant Blenis.

12 Q. Right. And that's because looking at Colonel Wright's  
13 email he believed that the way you did business was if you're going  
14 to remove clothing you need to have the guy in suicide risk?

15 A. Okay, sir. But here's the difference and here's why that  
16 needs to be looked at in a different light. For one thing, sir, to  
17 be very honest, in corrections I've seen it done both ways with SR;  
18 some COs will still let them have their underwear and two blankets,  
19 some COs won't. That's one thing. The other thing is there's no set  
20 training or pattern -- I don't know if you realize this, but for  
21 corrections officers there's no formal school after you complete the  
22 basic warrant officer course. So a lot of the experience and  
23 expertise we have that's derived from working with seniors and seeing

1 how brigs are run. You know, there's some calls, you know, maybe a  
2 previous decision you may not have made. But to be very honest, sir,  
3 a difference of professional opinion, that occurs on a regular basis.  
4 It's just like, you know, they bought us brand new vans to transport  
5 the prisoners in without seatbelts. I had a difference of opinion on  
6 that. When those vans were delivered, I made it very clear a  
7 prisoner is not going to enter that van and be transported anywhere  
8 until seatbelts are -- are installed. So professional opinions on  
9 things, sir, like anybody else, I just honestly think sometimes  
10 people disagree on certain things. And, again, from my experience  
11 just knowing that in some facilities COs have allowed them to have  
12 underwear and the blanket, or no underwear and a blanket. I honestly  
13 -- that had went both ways before.

14 Q. But in this case the person that's disagreeing with you is  
15 up at PSL, correct?

16 A. That's correct, sir.

17 Q. And that person is basically the proponent of SECNAV  
18 Instruction 1640.9(c), correct?

19 A. You could say that, sir, yeah.

20 Q. Well, not only can you say that -- they are the proponent,  
21 right?

22 A. Well, again, sir, yes.

23 Q. And they're telling you that this is not the way you're

1 supposed to do business?

2 A. Well, again, sir, he expressed his own opinion that it's  
3 inconsistent with how they do business. But, again, sir, to be very  
4 honest, the whole suicide thing, again, from my experience, does --  
5 you're on SR so that means you don't get to have your underwear. COs  
6 have done it differently, sir.

7 Q. Did you call up Colonel Wright and say, look, I have a  
8 difference of opinion with you, sir, I don't believe you're right?

9 A. Well, no, sir. For one, they're not in my chain of  
10 command. The brig's no longer -- and you probably didn't know this;  
11 the brig's no longer belong to Headquarters Marine Corps, they belong  
12 to the base commander. So when I expressed my difference of opinion  
13 with Colonel Oltman -- and I'm sure he might have briefed Colonel  
14 Choike, you know, it's really not my place to say, hey, sir, we  
15 disagree. He just felt -- let me go to her supervisor -- provide  
16 some -- a professional opinion. And that's what he did. Because --  
17 again, well, the day that I made that decision Colonel Oltman was in  
18 the loop that day. I called him -- I let him know -- so this was not  
19 a surprise to him. It's just at the end of the day with briefing  
20 things real quick -- he just wanted to make sure that he captured  
21 those points very well. So he may have talked to Lieutenant Colonel  
22 Wright, but it's not common that I would speak to Chief Warrant  
23 Officer Galaviz's boss.

1 Q. Right. And in this instance because you didn't have to  
2 answer to Lieutenant Colonel Wright, the only person you had to worry  
3 about would be Colonel Oltman or Colonel Choike, is that right?

4 A. I mean I wouldn't phrase it like that; the only people I  
5 had to worry about. Again, I just followed my chain of command -- he  
6 -- you know, Lieutenant Colonel Wright himself did not call me or  
7 email me directly. I would have answered his email and still cc'ed  
8 my boss. But the way that kind of worked, sir, is -- with that and  
9 other issues. Lieutenant Colonel Wright has an issue, he contacted  
10 Colonel Oltman.

11 Q. All right, and you see where you respond to Colonel Oltman  
12 after he's asking you to synopsise your rationale. That's where you  
13 breakdown your rationale for your decision, is that right?

14 A. Right.

15 Q. And that's also where you cite your authority for your  
16 position?

17 A. That's correct.

18 MJ: Yes, Major Fein?

19 TC[MAJ FEIN]: Your Honor, just at some point could we just have  
20 a 10 minute comfort break?

21 MJ: Okay. Do you want to finish your line of questioning?

22 CDC[MR. COOMBS]: Yes, ma'am. And then ----

23 MJ: Okay. Go ahead. We'll do that after that.

1 CDC[MR. COOMBS]: All right, I'm showing you Appellate Exhibit  
2 441S [handing the document to the witness], and retrieving from you  
3 Appellate Exhibit 441R [retrieving the document from the witness].

4 Q. Now here's where you talk to Master Sergeant Papakie about  
5 kind of the wisdom of your position, is that right?

6 A. [Looking at the document] Your wisdom? Say that again,  
7 sir? When I'm talking to Master Sergeant Papakie, what?

8 Q. What's this email about?

9 A. [Looking at the document] It was just me emailing Master  
10 Sergeant just telling him a thought that came across my head and  
11 something for him to think about.

12 Q. And what was that?

13 A. Well the thing with SR and the SECNAV it says when a doctor  
14 deems that SR is no longer necessary or required to return them to  
15 appropriate quarters. But, again, sir, you have to remember the way  
16 the SECNAV is written it's not written for a facility like mine. So  
17 when they refer to return to -- to appropriate quarters they would  
18 then mean that's in a Level 1 facility or Charleston or Chesapeake.  
19 They would mean outside of special quarters -- returning them back to  
20 the dorm or the pod where they live. But, again, for me, this was  
21 just -- you know, because obviously PSL did not agree, you know, and  
22 my thing is what do we do with the underwear issue based on his  
23 statement. So, again, that was just -- honestly, sir, a point that

1 Chief Warrant Officer Galaviz and I -- when I was explaining myself,  
2 he didn't address that comment too much. So that was just me, again,  
3 emailing Master Sergeant just asking him to think about something.

4 Q. And you tell me if I'm wrong, I look at that and I  
5 interpret it you basically saying, look, based upon PSL's guidance,  
6 if you would have made him SR, you would have had to return him to  
7 special -- to POI. And at that point then you wouldn't have had the  
8 authority to do anything with the underwear. Am I reading that  
9 wrong?

10 A. Say that again, sir?

11 Q. I see here where it says [reading from the document] hey,  
12 Master Sergeant, based upon -- based on PSL's guidance, making him SR  
13 we would have to now return him to appropriate POI, right?

14 A. [Reading from the document] Appropriate ----

15 Q. [Continued reading from the document] And then what do we  
16 do with the underwear issue based on his statement? Food for  
17 thought.

18 A. Right.

19 Q. And then you put exclamation point behind that. So I look  
20 at that and -- the way I'm interpreting it is you're basically  
21 saying, look, had we done this the way PSL says we're supposed to do  
22 it; and that's put him on SR if you're going to take clothing, once  
23 Colonel Malone he's not on SR, you would have to return the



1 underwear?

2 A. Not necessarily, sir, 'cause, again, it does not say when  
3 they're on SR that you have to take underwear or that you don't allow  
4 them to keep underwear. So, again, his thing is -- if he says, hey,  
5 no SR, whatever status the CO puts the person back in that's what  
6 they choose to do as long as it is not keeping him in SR.

7 Q. Okay. So how is it -- I understand in SR you can take away  
8 the underwear or not take away the underwear, right?

9 A. Right.

10 Q. And the provision we looked at for taking away clothing  
11 falls under SR?

12 A. Yes, sir, but, again, it's not just -- there's the -- some  
13 believe also -- that also addresses that, just not in that section --  
14 I can't recall. But, again, from what I quoted, yes, it was from  
15 that -- from that section.

16 Q. And PSL, the proponent of the regulation is saying that if  
17 you're taking clothing away, that's SR?

18 A. In their opinion, sir, yes.

19 CDC[MR. COOMBS]: We can go ahead and, ma'am, at this point  
20 take a break.

21 MJ: All right, court will be in recess for -- until -- want to  
22 say quarter after 1800?

23 TC[MAJ FEIN]: Yes, ma'am.

1 CDC[MR. COOMBS]: Yes, ma'am.

2 MJ: Okay.

3 [The Article 39(a) session recessed at 1802, 7 December 2012.]

4 [The Article 39(a) session was called to order at 1821, 7 December  
5 2012.]

6 MJ: This Article 39(a) session is called to order. Let the  
7 record reflect all parties present when the court last recessed are  
8 again present in court. The witness is in the witness chair.

9 Proceed.

10 CDC [MR. COOMBS]: Chief Barnes, I again remind you you are  
11 under oath.

12 WIT: Yes, sir.

13 **CROSS-EXAMINATION (Continued)**

14 **Questions by the civilian defense counsel [MR. COOMBS]:**

15 Q. I want to now talking about 3 March 2011. Okay?

16 A. Okay.

17 Q. That morning PFC Manning was standing naked for count?

18 A. Uh, huh.

19 Q. And you indicated that the DBS came in and saw PFC Manning  
20 standing naked.

21 A. That's right, sir.

22 Q. And we've heard previous testimony that DBS was Staff  
23 Sergeant Terry?

1           A.    That is correct, sir.

2           Q.    And what did Staff Sergeant Terry tell you he did?

3           A.    Basically, when I came in, you know, I know that there was  
4 a note that he had got counseled or something like that but  
5 basically, uh, you know, kind of said what happened.

6           Q.    What did he tell you happened?

7           A.    He said as he went around for count the inmate was standing  
8 there naked and it caught him off guard and I don't recall exactly  
9 what he said to him but again, you have to remember that through our  
10 count the goal is to get through special quarters quick and make sure  
11 everybody is there and accounted for so I'm pretty sure he said  
12 something to him maybe along the lines of, 'hey, get dressed', or  
13 whatever but I don't recall exactly, sir, what he said.

14          Q.    Well, you would agree with me that having a detainee  
15 standing naked for count is not a usual occurrence?

16          A.    Well, a detainee standing for count naked is not a usual  
17 occurrence, that's right. To having part ----

18          Q.    No, and so you would also agree with me from a disciplinary  
19 standpoint that if a detainee is choosing not to dress in clothing  
20 that that's an issue that you as the Brig OIC and your staff need to  
21 address immediately?

22          A.    I mean, and it was, I'm sure again, Staff Sergeant Terry  
23 spoke to him and again something like that because it's not chronic

1 behavior. It's just a counseling or, 'hey, don't do that anymore.'  
2 But again I also know that Master Sergeant, I spoke to him about  
3 that.

4 Q. Okay. So having a person standing naked for count, doesn't  
5 rise to a level of actually doing an adverse spot evaluation or a  
6 disciplinary report?

7 A. Again, not a disciplinary report, sir, but again that was  
8 the first time that it had happened. I mean, it's just, I mean,  
9 again, we don't kill a fly with a sledgehammer. We use a fly  
10 swatter. So that was the first time and of course, you know, he was  
11 counseled on it. So we are not just going to jump straight to  
12 disciplinary report for something that he had not been doing  
13 continuously. I mean, it was not taken lightly. I mean, but I mean,  
14 because we don't encourage that and it's just unsettling. Again, I  
15 wouldn't, I wouldn't do it, sir, okay? These kinds of things bother  
16 me. When I was enlisted I was a guard sitting in the dorms like  
17 everybody else. I hated to do strip searches. So, any form of  
18 nudity, sir, that's absolutely necessary in the case of strip search,  
19 I don't like that.

20 Q. Now, you would agree with me that if PFC Manning was told  
21 to stand naked for count that that would be problematic?

22 A. Absolutely.

23 Q. And you would also agree with me that as the DBS even

1    though he does have to do his count if he sees something unusual like  
2    that he should do an on-the-spot correction?

3           A.    And, sir, again, I'm not sure exactly what Staff Sergeant  
4    Terry told him verbatim, but yes, that is something I'm sure he  
5    addressed. But again, that was just one of those quick things he  
6    addressed that -- and he went through special quarters to complete  
7    his count.

8           Q.    Now, as the Brig OIC having this as an unusual event I  
9    imagine what you did was tell everybody, let's do up an incident  
10   report and document what happened?

11          A.    I mean, I don't have to tell them that, sir. Things like  
12   that that are out of the norm, you know, they document those things.

13          Q.    So, did you have people like Staff Sergeant Terry and the  
14   other guard staff that was there fill out an incident report and  
15   explain what happened?

16          A.    I'm pretty sure one was done, sir, but I can't tell you  
17   exactly who did it. It could have been the special quarters Marine  
18   at the time. It could have been an entry on his hard card. So to be  
19   very honest with you, sir, I don't recall which one, but I know that  
20   it was addressed and Master Sergeant Papakie himself went and spoke  
21   to him which he did admit, I knew that it's not appropriate to stand  
22   naked and that I recall being on his hard card.

23          Q.    Uh-huh.

1           A.    But as far as Staff Sergeant Terry's statement I don't  
2 recall if one was done.

3           Q.    Alright. So, I want to break that down a little bit.  
4 Incident reports of people actually filling out statements we have,  
5 at least I haven't seen those, so do you recall any of those being  
6 done by the Brig Staff?

7           A.    Incident reports on different things, yes, they were doing  
8 that, sir.

9           Q.    No, for this incident. 2 March?

10          A.    Again, sir, I don't ----

11          Q.    Or 3 March?

12          A.    ---- recall. I do remember on his hard card that Master  
13 Sergeant Papakie spoke to him. He made an entry on his hard card but  
14 again, more than likely it was done, sir. I don't -- Again, I don't  
15 recall.

16          Q.    And your testimony now is that Master Sergeant Papakie had  
17 a conversation with my client? My client told him that he knew he  
18 was not supposed to be standing naked?

19          A.    That's what I was briefed on, sir.

20          Q.    Who briefed you on that?

21          A.    Master Sergeant Papakie. He said he -- He said, 'Ma'am, I  
22 went down there. I spoke to him and I explained, hey, look, you know  
23 that you don't stand naked, right? Because you have two blankets.'

1 And from Master Sergeant Papakie told me he said he understood that  
2 that was not something that was appropriate.

3 Q. And did Master Sergeant Papakie tell you that PFC Manning  
4 was told to put down the blanket and stand at parade rest?

5 A. Definitely not, sir. Again, Staff Sergeant Terry had told  
6 me just like with the other detainees right before Reveille the gear  
7 is put on the feed tray at the cell and it's given to them. But  
8 again when you have two blankets you get up, you cover yourself and  
9 when you wrap it around yourself there is a way where you can secure  
10 it but again, usually when they get up they would just get, you know,  
11 their stuff. Now, maybe when they get the stand by for count their -  
12 - they could be at parade rest or waiting around. But again, that is  
13 10 minutes where he could have gotten dressed. Reveille is 0500,  
14 count is 0510.

15 Q. We heard testimony actually that the count occurred within  
16 a minute or so of Reveille actually.

17 A. Sir, I don't see how that is possible. You go to -- They  
18 make the announcement, Reveille, Reveille, Reveille, all lights on,  
19 all prisoners out of their rack, Reveille. I don't see that Staff  
20 Sergeant Terry would go into special quarters and conduct a count a  
21 minute after that. That -- Obviously I wasn't there that morning,  
22 sir, but on the plan of the day, Reveille goes at 0500. They know  
23 that they do have to give them time to get up, maybe they have to use

1 the bathroom, but to say that count was a minute, commenced a minute  
2 after the announcement was made for Reveille, sir, I would say that  
3 is kind of unlikely.

4 Q. And that would be unusual, wouldn't it?

5 A. Yes, because they go to Reveille and then they go to stand  
6 by for count, and then they go to count.

7 Q. And if the facts were that after PFC Manning got up and he  
8 had the blankets on him ----

9 A. Uh, huh.

10 Q. ---- and the guard told him, 'Is that how you stand for  
11 count?' and PFC Manning put the blankets down and the guard didn't  
12 correct him or anything and there was no clothes in his food tray,  
13 and if they had him stand at attention naked, I know you weren't  
14 there, but if those were the facts and you got them what would you do  
15 as a Brig OIC?

16 A. Obviously, sir, if that is what occurred and that's what I  
17 was briefed on, obviously I would take action. Again I was ----

18 Q. What action would you take?

19 A. I mean that guard would be reprimanded. I mean ----

20 Q. How so?

21 A. There is a bunch of different things I could do, sir.  
22 Again, it can go anything from a counseling, a Page 11 entry, I  
23 wouldn't say it rises to a level of a court-martial, but of course,



1 sir, you know there are different ways that you handle situations.  
2 But again, it would be addressed and it would not be something that I  
3 would take likely because that to me would be deviant behavior.  
4 Somebody is telling you, 'hey, stand up naked for count.'

5 Q. Right, and you already indicated to your staff that you are  
6 not going to sweep anything under the rug, right?

7 A. That's correct.

8 Q. And so in this instance though what was told back to you  
9 was apparently PFC Manning chose to do what he did and nobody  
10 informed him that he had to stand naked, right?

11 A. That's what I was briefed on, sir.

12 Q. And you actually told me that you thought that PFC Manning  
13 purposely did what he did just to be provocative?

14 A. When did I talk to you, sir?

15 Q. When you were interviewed. You indicated to the defense  
16 that you believed that PFC Manning did what he did in order to make a  
17 point. Do you recall saying that?

18 A. No, when I spoke to Captain Tooman it was not you, and he  
19 specifically told me, identified himself as Captain Tooman and not  
20 you when he made that, he asked me if I felt that maybe there was a  
21 time when I think he said, may have manipulated a situation or done  
22 something, and that was the example I gave. I just said -- I just  
23 find that, okay, at night-night, you won't have your underwear so you

1 stand up the next day naked when you know you have two blankets and  
2 you can cover yourself.

3 Q. Alright. So, you told my co-counsel that you believed he  
4 was being manipulative when he decided to stand up naked?

5 A. That's correct. If he wasn't sure, sir, like with anything  
6 else he could have asked the guard or could have said, 'Hey, Lance  
7 Corporal or Corporal,' whoever was down there, 'I'm getting up or  
8 where's my clothes?' Or anything like that but again, sir, that's  
9 not behavior that I encourage.

10 Q. And wouldn't you then at that point do something to  
11 document more so the fact that PFC Manning was doing something like  
12 that, that it's documented that his behavior was voluntary and  
13 unacceptable?

14 A. Master Sergeant had made that entry on his hard card, sir,  
15 and again, you know, that's just one of those things, you know, it  
16 was addressed. I didn't feel the need to go back and bring it back  
17 up or address that with him. He just like other detainees, he did  
18 something. He was corrected and that's it. Now, if he continued to  
19 do it then yes, I would get involved and then it will be an issue.

20 Q. But we see time and time again in the weekly reports and  
21 even in the C&A Board reports, behavior that occurred months and  
22 months and months earlier and yet this behavior, the voluntarily  
23 standing up naked is never referenced. Why is that?

1           A.    I don't know, sir, I would have to go back and look through  
2 all of those but to be very honest with you I have to look at it and  
3 see.

4           Q.    And again, if the situation were not what you believed it  
5 was, that Manning -- that PFC Manning was trying to manipulate the  
6 fact you or others because his underwear was taken from him and  
7 instead was ordered to stand that way, then you would agree that that  
8 would be problematic?

9           A.    Again, sir, yes, you know, if the staff does something like  
10 that that is not something I would let go.

11          Q.    Now, on 7 March 2011, PFC Manning was given a suicide smock  
12 to wear. Correct?

13          A.    Yes, sir, he was.

14          Q.    And you weren't the one who decided that he would be  
15 wearing the suicide smock?

16          A.    No, sir.

17          Q.    The decision was made by someone over your head, a Captain,  
18 well, you got an email from a Captain Dunn. Do you recall that?

19          A.    I don't recall. I have to see the email but I don't recall  
20 him making a decision to purchase, I would have to see the email,  
21 sir.

22          Q.    I'm showing you what's been marked as Appellate Exhibit  
23 441T.

1           A.     Okay.

2           Q.     In this email you are responding to Captain Dunn.  He's --

3     It looks like he is perhaps an attorney within Major General Arye's

4     office.  Do you see that?

5           A.     Yes, sir.

6           Q.     And you tell him that the -- it was the -- the suicide

7     smock isn't mandatory but your higher headquarters, PSL, took the

8     liberty of purchasing them.

9           A.     Yes, sir.

10          Q.     And you believe and correct me if I'm wrong, you believe

11     that it was CW5 Galaviz who made that determination?

12          A.     Well, I had spoken to Mr. Radamate Peagon [phonetic] that's

13     his deputy, so between him or Chief Warrant Officer Galaviz I

14     couldn't say for sure but I just know that Mr. Peagon was the one who

15     called me and said, hey, because in general they just asked me did we

16     already have some and I said no.  And they had a question on other

17     facilities even having any and they just kind of said maybe that's

18     something we'll get for the other facilities as well.  So Mr. Ray

19     Peagon was the one who kind of said, 'hey, it's going to be delivered

20     on this day.  You can expect them.'

21          Q.     And so until you got that call you weren't planning on

22     purchasing a suicide smock were you?

23          A.     I mean at the time he had those two blankets but again I

1 did not at that time say to myself well he is going to continue to be  
2 like that so out of sight out of mind. But I did -- I do remember  
3 talking, I think it may have been to Gunny Blenis, just asking in  
4 general, you know, whether it's at the hospital, maybe at Walter Reed  
5 or something just kind of see what they do but again we didn't have  
6 it and when I talked to Mr. Peagon he just said, yeah, he said,  
7 'well, we'll just go ahead and order those,' but again I did not see  
8 when I made that decision that I was going to keep that long term  
9 like, hey, this is permanent. So, at the time I just said, you know,  
10 he still has his two blankets and because I know he is given all of  
11 his clothing during the day, it was not one of those things that  
12 immediately, you know, I said, hey, give him this permanently.

13 Q. Well, we do know that you never changed the handling  
14 instruction of removing his underwear prior to him leaving on 20  
15 April, correct?

16 A. That's correct, sir.

17 Q. So, had the suicide smock not been purchased and you did  
18 nothing else, PFC Manning would be sleeping naked each night with  
19 just the two POI blankets, correct?

20 A. Yes, but again, sir, that was -- I did question that or  
21 bring up, hey, what else could we do and it just so happens that Mr.  
22 Peagon he happened to take action at that point. But my intent was  
23 not to, okay, well every night now he has to sleep naked. That was

1 not my intent, sir.

2 Q. So, eventually you were going to do something about that?

3 A. I mean, yes, I was going to review that and maybe look for,  
4 again, that communication for him to say, hey, look, ma'am, that day,  
5 well you already know what took place. I was really frustrated. I  
6 honestly didn't mean anything by that. I mean, you know, again if he  
7 had just spoken openly. If I had seen changes in behavior, maybe  
8 more communication or maybe even if he said, ma'am, I know  
9 communication has been degraded some but I want to start it back up  
10 again. I want to establish more rapport. These are things that  
11 would have helped me because again, you know from the emails you  
12 reviewed, I always made it clear, did not have a problem to change  
13 his status and there was also email traffic that said, hey look, this  
14 is going to be reviewed on and on and not just -- that wasn't a  
15 permanent decision.

16 Q. Well, I guess my question though was were you planning on  
17 doing any -- getting anything like a suicide smock for him?

18 A. Yes, sir, because again I asked about it and Gunnery  
19 Sergeant Blenis, uhm, you know, he had did research, he called around  
20 to like Fort Buckner asking other facilities that houses military  
21 offenders and things like that. So, again, you know, initially it  
22 was, you know, okay that is something I made in my mind I did not say  
23 look, that was going to be permanent. But again, I thought well,

1 we'll see how things go but if things don't change or that kind of  
2 behavior continued or those kind of comments then, you know, nobody  
3 would want to just sleep in two blankets period.

4 Q. Okay. So, it was just happenstance that PSL actually took  
5 the initiative to purchase the suicide smock for you?

6 A. Yes, I would say that, sir. Because again, the questions  
7 were up, hey, other brigs don't really have this either and maybe  
8 this is something we could buy for all of the facilities.

9 Q. Now, this incident of having PFC Manning be required to  
10 surrender his underwear at night ----

11 A. Uh-huh.

12 Q. ---- prompted a lot of media attention. Correct?

13 A. Yes, sir, it did.

14 Q. And it also caused a lot of what you said, distain from  
15 people who support PFC Manning?

16 A. Well, I mean, yes, I'm sure that was one of the things but  
17 that was actually going on even before that incident, sir.

18 Q. But this incident in particular caused a lot of people who  
19 were supporting PFC Manning to become I guess more proactive and more  
20 vocal?

21 A. Just more upset, sir.

22 Q. I'm retrieving from the witness Appellate Exhibit 441T and  
23 handing the witness Appellate Exhibit 441U.

1 A. Uh, huh.

2 Q. Now this is an email to your staff and you CC Colonel  
3 Oltman and you are talking about the fact that, you know, the  
4 decision to remove his underwear is causing attention and distain  
5 from those who support PFC Manning. Correct?

6 A. Those are not the exact words but I said, yes, keeping his  
7 underwear and that comes with a lot of distain from others who  
8 support him, yes.

9 Q. Alright. And you warned your staff to be prepared for  
10 verbal attacks or either on the phone or at visitation. Correct?

11 A. That's correct, sir.

12 Q. And the media attention really though didn't begin at this  
13 incident as you previously stated, right?

14 A. No, there were issues before, sir, and again these threats  
15 that the staff was getting that was occurring even before I took  
16 over, sir, so this has been kind of ongoing but my reference to this  
17 is just okay, those threats might heat up some.

18 Q. And the media attention in this case was ongoing even  
19 before you got called, right?

20 A. As I would assume so, sir.

21 Q. I'm retrieving from the witness Appellate Exhibit 441U.  
22 Handing the witness Appellate Exhibit 441V. Now sometimes you were,  
23 in fact, involved in formulating responses for media inquiries were



1 you not?

2 A. Yes, sir, they were calling to ask me questions or a  
3 definition of terms and stuff like that.

4 Q. On 26 January 2011, First Lieutenant Villiard [phonetic]  
5 wrote a response that he was planning on sending out to the media and  
6 you indicated that it was very good. Correct?

7 A. But I added however though, that's not my entire answer.

8 Q. Right, you said, I'm screaming right now. We never say  
9 solitary confinement?

10 A. That's right.

11 Q. You didn't say, we don't have a designation of solitary  
12 confinement, you just simply say we never say solitary confinement.  
13 Correct?

14 A. That's what I said, yes, sir.

15 Q. And that's because solitary confinement doesn't sound good?

16 A. Nor does an existence of Department of Defense Corrections,  
17 sir. I mean surely if it's a thing with words ----

18 Q. Uh, huh.

19 A. ---- yes, you know, someone could tear that apart and say  
20 well you did not say it doesn't exist. I have spoken to Lieutenant  
21 Villiard on the phone before and other people and that's why I said,  
22 I am screaming because I remember talking to him in general, I mean,  
23 even when dignitaries came to visit the facility I cleared that up.

1 I said, the definition of solitary means no communication,  
2 interaction with personnel, other inmates whatever the case is and  
3 you are just left in a cell to rot away and that does not exist.

4 Q. Okay. So that is for you, I just want to make sure I know  
5 what you're definition of solitary confinement is then. So solitary  
6 confinement is being left in your cell?

7 A. No interaction with anybody prisoner or staff, not being  
8 fed or ----

9 Q. No interaction. Well, obviously you would have to have  
10 some interaction because you are getting food and stuff, right?

11 A. Well, again, sir, if you are just going to base a  
12 definition of solitary confinement, yes, it's no interaction at all  
13 or no type of exchange with other staff.

14 Q. Okay.

15 A. Or with the inmates in general.

16 Q. So, left in the cell, no interaction with staff and or  
17 certainly other detainees, right?

18 A. Right.

19 Q. Any other characteristics for you that would say ----

20 A. I mean, those are just the basic definition, sir. But  
21 again, I told him, hey, I'm screaming right now because you have to  
22 understand, sir, they are not in corrections all the time and when  
23 the media keeps saying solitary confinement. Solitary confinement.

1 You know, that's, you know, even in civilian corrections that's a  
2 term that's used, but again, for us in military corrections, it  
3 doesn't exist.

4 Q. Well, how is what you described as I guess, being left in  
5 your cell and not having interaction different from how PFC Manning  
6 was held?

7 A. Well, there was interaction, sir. You know that. I  
8 explained. I talked to him. His counselor talked to him. He was  
9 out of the cell for recreation call, visits with you, telephone  
10 calls, shower calls. So, that will constitute interaction though.

11 Q. Alright. I'm showing you Attachment 37 to Appellate  
12 Exhibit 258. Your Honor, I'll just provide a copy to the court.  
13 This is the testimony before the Senate Judiciary Subcommittee on  
14 Constitution, Civil Rights, and Human Rights Hearing dealing with  
15 solitary confinement.

16 A. Okay.

17 Q. And this is the testimony of Professor Craig Haney and he  
18 describes solitary confinement and I want you to -- to go ahead and  
19 if you would turn to Page 4.

20 A. Okay, sir.

21 Q. Professor Haney starts off with, "I should acknowledge that  
22 the term solitary confinement is a term of art in corrections.  
23 Solitary or isolated confinement goes by a variety of names in US

1 Prisons; security housing, administrative segregation, close  
2 management, high security, closed cell restriction and so on. But  
3 the units all have in common the fact that the prisoners who are  
4 housed inside them are confined on an average of 23 hours a day in  
5 typically windowless, or near windowless cells. They commonly range  
6 in dimensions from 60 to 80 square feet. The ones on the smaller  
7 side of this range are roughly the size of a ----

8 TC [MAJ FEIN]: Ma'am.

9 MJ: Yes.

10 TC [MAJ FEIN]: That's not a question for the witness.

11 MJ: Well, that's what I'm asking. I'm thinking this too. Are  
12 you going to read the entire document to the witness?

13 CDC [MR. COOMBS]: No, Your Honor. If I can have another  
14 moment, I'll finish and ask the question.

15 MJ: Okay. Well, are we going to go paragraph by paragraph  
16 through this document?

17 CDC [MR. COOMBS]: No, Your Honor.

18 MJ: Is it going to stop after that question with this document?

19 CDC [MR. COOMBS]: No. I'm not going to read any more out of  
20 the document though, Your Honor.

21 MJ: Alright. I'll let it go for now.

22 CDC [MR. COOMBS]: Alright.

23 Q. 'So the ones on the smaller side of the range are roughly

1 the size of a king-size bed. One that contains a bunk, a toilet, a  
2 sink, and all the prisoner's worldly possessions. Thus prisoners in  
3 solitary confinement sleep, eat, and defecate in their cells in  
4 spaces that are no more than a few feet apart from one another.' Do  
5 you see that?

6 A. Okay, sir.

7 Q. Do you agree or disagree with Professor Haney's definition  
8 of solitary confinement?

9 MJ: I'm -- please don't answer that question. There is plenty  
10 of other things in here that I looked through that go along with  
11 that. So, that is not his entire definition of solitary confinement.  
12 So, please move on to a different area inquiry.

13 Q. Well, ma'am -- would you agree in this instance that PFC  
14 Manning was held in a cell for roughly 23 hours a day?

15 A. Well, sir, honestly with rec call and coming out for shower  
16 call, no, it wasn't 23 hours a day.

17 Q. How many hours a day on average was PFC Manning held in his  
18 cell?

19 A. I mean, sir, it would depend. He would come out for  
20 visits, shower call, rec call, so, sir, to get me to tell you every  
21 day he was in that cell for 22.5 hours, I can't do that, sir. Again,  
22 every day was different. People would talk to him. He would go out  
23 in that room, so to be very honest with you MAX custody prisoners,

1 yes, are they in their cells for a considerable period of the day?  
2 Yes. But again, there's no number that says that. When you take  
3 into consideration rec call. You take into consideration shower  
4 call, phone calls and visits.

5 Q. How long did he get for shower call?

6 A. I don't recall exactly, sir, but it probably was, I don't  
7 know anywhere from 20 minutes, 30 minutes, it depends. But again  
8 with having to suit him up, escort him down, again, sir, I'm not  
9 there during that time but I'm sure he has an adequate amount of time  
10 to shower. He will let them know when he's done.

11 Q. And his cell, did it have any windows in it?

12 A. No, sir, his cell did not have any windows but again,  
13 that's just how the Brig is designed. Headquarters, Marine Corps did  
14 a functional area inspection. The Brig is fine and by the SECNAV  
15 doesn't require, you know, when there are some cells are open-faced,  
16 there were windows in special quarters, yes, but just not in his cell  
17 because all of the cells are right next to each other. Sir, they are  
18 open-faced cells.

19 Q. And his cell was 6 by 8. Is that correct?

20 A. 6 by 8 by 8, sir.

21 Q. And so that would be less than 60 to 80 square feet, right?

22 A. If you want to do the math that way, sir, okay.

23 Q. Well, I mean, math is not -- mathematics is not an opinion

1 it's a fact, right?

2 A. Okay, sir.

3 Q. Alright. So, in this instance here also he had a bunk, a  
4 toilet, and a sink, is that right?

5 A. Yes, sir, he did.

6 Q. And he had to eat in his cell?

7 A. That's correct.

8 Q. Sleep in there?

9 A. That's correct.

10 Q. And obviously if he had to use the facilities he used the  
11 facilities in his cell?

12 A. Like every other detainee, sir, yes.

13 Q. Now, when you looked at him for MAX and POI ----

14 A. Uh, huh.

15 Q. ---- did there come a time where you thought, you know  
16 what, maybe I'm being overly conservative in my custody and  
17 classification of PFC Manning?

18 A. No, sir, again, I just stuck to basic corrections. I stuck  
19 to the tenants that I gave him being honest, me having open  
20 communication with him telling him, hey, this is what I need to do.  
21 I don't think that, you know, I was overly harsh or extra  
22 conservative. Again, he was not the only POI detainee that we had  
23 and they were all treated the same.

1 Q. Well, I don't doubt that they were all treated the same but  
2 do you have any other MAX/POI detainees for the length of PFC  
3 Manning?

4 A. No, not under my watch, no.

5 Q. Now, with regards to his suicide smock you recall there was  
6 an incident where he got stuck inside the smock, correct?

7 MJ: Before you answer that, can I -- the question that you said  
8 before there were no other POI detainees on your -- when you were ---  
9 -

10 WIT: In that -- In that set of a very long period of time, no,  
11 ma'am.

12 MJ: For a long time?

13 WIT: Right.

14 MJ: Okay. I've got it. I'm sorry, go ahead.

15 Q. Oh, no problem, Your Honor.

16 So, with regards to or actually we'll go back to that POI  
17 for just a moment.

18 A. And so we are done with this, sir, I don't mean to  
19 interrupt you?

20 Q. No.

21 A. Okay.

22 Q. With regards to POI what was the longest you had another  
23 detainee on POI other than PFC Manning?



1           A.    To be honest with you, sir, I don't recall. I know it was  
2 more than a few days. But again, it was not to the length of time  
3 that he had been in that status himself, sir.

4           Q.    Alright. Now talking about the suicide smock as you have  
5 previously testified there was a time when PFC Manning got stuck in  
6 that. Is that right?

7           A.    I recall that happening, sir, yes.

8           Q.    And you recall PFC Manning saying that he hated the suicide  
9 smock?

10          A.    Yes, sir.

11          Q.    Now, after that incident did you ever consider whether or  
12 not the smock could be something that would pose a danger to PFC  
13 Manning?

14          A.    No, sir. Again, he was counseled on how to -- on what to  
15 do or not to do and I don't recall that it happened after that. I'm  
16 not too sure but, the way it is designed I didn't think he could, you  
17 know, hurt himself with it but again he was just told this is how you  
18 wear it.

19          Q.    And if I understand or if I'm correct he was counseled not  
20 to put his arms into the suicide smock again. Is that right?

21          A.    I believe that's probably what he was told, sir.

22          Q.    Now did you think the danger at this point by giving his  
23 underwear back was greater than just having him wear the suicide

1 smock?

2 A. Again, sir, I didn't see any change in behavior. He never  
3 discussed that comment with me or anything like that. So, yes,  
4 obviously if I kept his underwear I still felt there was nothing that  
5 I was seeing from him that made me feel comfortable to say, okay, you  
6 know what, I don't have an issue let's give you your underwear back.

7 Q. And I want to make sure I understand your testimony, is it  
8 -- were you seeing anything from a conduct standpoint that would  
9 cause you to be concerned about not giving him his underwear back?

10 A. No, sir, because again, that's one thing. Even though he  
11 did not carry on full length conversations, he was, aside from that  
12 one instance, he wasn't disrespectful or just like acting out  
13 because, well, I don't have my underwear I'm going to yell, I'm going  
14 to scream or I'm going to do this or that. No.

15 Q. And you were consistently still receiving the  
16 recommendations from your forensic psychiatrist that PFC Manning was  
17 a low risk for self-harm during this time period, right?

18 A. Right, but I believe there may have been others. I'm not  
19 sure if it was Lieutenant Colonel Russell at the time frame but it  
20 wasn't always marked low and again, they never state no risk.

21 Q. Right. No one is ever no risk, right?

22 A. Right.

23 Q. Now, in spite of his good behavior and getting favorable

1 recommendations from your mental health experts you kept him on this  
2 because he hadn't verbalized to you something that you wanted to  
3 hear. Is that correct?

4 A. I mean, not just something I wanted to hear but actions  
5 that I need to see, because again, even though he's not being  
6 disrespectful or not answering me maybe like when they call attention  
7 on deck, he's not standing up at attention. He wasn't doing those  
8 types of things but again, sir, very reserved, very short with  
9 answers, little to no conversation, that's -- that's -- those are the  
10 things I'm looking at. Naturally I would think after we had that  
11 talk that he kind of understood, you know, it's one thing maybe if  
12 you don't want to speak a lot, don't want to answer a lot of  
13 questions, but disrespect he understood clearly that day that if it  
14 continued, you know, it wouldn't help his case later on that he would  
15 face repercussions like everybody else. So, again, you know, yes,  
16 was he respectful when he answered? Yes, ma'am, or no ma'am, or  
17 something like that but again, the overall behavior, the interaction  
18 with staff and with me and talking, that wasn't there.

19 Q. But was there, in your mind, a time where you were going to  
20 return his underwear to him if he didn't start talking to you and the  
21 staff?

22 A. I mean, honestly, sir, out of my plan, again, sir, was to  
23 engage him, but you see from his statements himself, getting agitated

1 really easily, even when the guards are correcting him on something  
2 he's doing wrong. So, for me, again, once I explained to you, hey,  
3 these things don't make me feel comfortable. I am open. I am  
4 willing to give you your underwear back, change POI, but you are not  
5 doing the things I'm telling you to do.

6 Q. Right, and so I guess my question is then if he didn't  
7 start doing those things he was still going to have his underwear  
8 removed from him?

9 A. To be honest with you, yes, sir. I wouldn't -- If I did  
10 not see any positive change or any conversation from him telling me,  
11 ma'am, you know what, some time has passed, now I am ready to talk to  
12 you. I just was kind of heated still over things but now I'm ready  
13 to talk. Again, sir, for me I take no pride and no joy knowing that  
14 because of the amount of MAXs we have and the requirements and that  
15 tasks the staff. I have Marines that cannot go to professional  
16 development schools, other things are going on. It's not just about  
17 Manning. We have another Brig to run. There are other MAXs in the  
18 Facility at any given time. So for me, it pains me when I have to  
19 keep MAXs in general. It could be a MAX escape risk. MAX protective  
20 custody, something else. So, I just want to make that point clear  
21 that I have never ever just said, well, it's a done deal that's it.  
22 You know, and I would go out of my way to engage him, talk to him,  
23 hey, look, I'm telling you what you need to do. Now, if I wasn't

1 giving him that guidance or telling him clearly what he needed to do  
2 then I would be at fault. It is my responsibility to tell him, hey,  
3 this is what you need to do.

4 Q. I'm showing you Enclosure 47, again of Appellate Exhibit  
5 259, the SECNAV Instruction.

6 A. Okay.

7 Q. Page 31 of 388, it says here that hazing, harassment,  
8 unauthorized exercises, unnecessary restrictions, or deprivations and  
9 demeaning treatment serve no useful purpose and are prohibited. The  
10 friction they cause creates tension between staff and prisoners and  
11 leads to acts of aggression, retaliation, and serious individual or  
12 mass disturbances.

13 A. Okay.

14 Q. Did you ever think that perhaps being on MAX and POI for  
15 the length that he was and now having his underwear removed from him  
16 was an unnecessary deprivation and restriction that was causing PFC  
17 Manning to act out?

18 A. No, sir. Again, when I see those -- I understand what the  
19 SECNAV says but again, he was not refused chow. He ate everything  
20 that we ate. Matter of fact he got fed first because he's given a  
21 list of the meal choices, he gets to pick what he wants to eat and  
22 again on special occasions he had steak and lobster, the same thing I  
23 would eat. I ate in the brig all the time. So, I did not feel -- to

1 answer your question, I did not feel there was any deprivation or  
2 anything that would cause him to act that way. I mean, again, he  
3 wasn't denied anything whether it was rec call, chow, you know,  
4 again, he asked for writing material and he got it.

5 Q. But he was denied his underwear at night?

6 A. Okay, sir, but again you know why I made that decision. I  
7 made it clear and again, it wasn't that one comment. When you take  
8 that comment and you look in totality of between his history, the  
9 things he said on paper, the things he said on the C&A Board, again,  
10 sir, in the corrections environment, we cannot take that lightly.

11 Q. Well, if he deemed the underwear being taken from him and  
12 unnecessary restriction, could you see how that might cause tension  
13 between him and your staff?

14 A. Well, it could, sir. But again, I limited that to between  
15 Taps and Reveille. Again, because of reduced visibility, less staff  
16 up at night. Again, during the day time he was allowed to wear his  
17 sweats. I know there was an issue with the heat before they got it  
18 fixed, he had his detainee uniform on. He went out to rec call, had  
19 his sneakers. Again, he wasn't denied hygiene call, showers, rec  
20 call, those kind of things. Now, if those things were occurring then  
21 yes, I could definitely see somebody like, "Whoa, whoa, whoa, whoa.  
22 Why am I not getting fed? Why am I not allowed to go outside?" that  
23 kind of thing.

1 Q. But you wouldn't see that with why am I having my underwear  
2 taking from me every night?

3 A. I mean, again, sir, yes, could having your underwear taken  
4 at night upset you or make you feel like, yes, but again, if you are  
5 honest with yourself and somebody explains their actions to you, if  
6 you are honest with yourself you might not necessarily have the same  
7 opinion but you could say, you know what, I kind of see why. I don't  
8 like it but I understand your points. So it doesn't mean we have to  
9 agree on everything but to be very honest, sir, yes, again, like I  
10 testified before maintaining just your clothing, we do everything to  
11 allow them to maintain some sort of dignity even while they are  
12 confined.

13 CDC [MR. COOMBS]: Your Honor, I could go into another block  
14 but I think that would be longer. It may be good to go ahead and  
15 recess for the night.

16 MJ: Alright. Any objection?

17 TC [MAJ FEIN]: No, Your Honor.

18 MJ: Is there anything we need to address before we recess the  
19 court? We will be reconvening, will it be Monday morning then at  
20 0930 as has been the norm?

21 CDC [MR. COOMBS]: Yes, Your Honor.

22 TC [MAJ FEIN]: Nothing new, or nothing else, Your Honor, 0930  
23 Monday morning.

1 MJ: All right. And once again, Chief Barnes, please do not  
2 discuss your testimony or knowledge of the case with anyone other  
3 than counsel or the accused while these proceedings are going on. We  
4 will see you at 0930 on Monday morning.

5 WIT: All right, ma'am.

6 **[The Article 39(a) session recessed at 1900, 7 December 2012.]**

7 **[END OF PAGE]**



1 [The Article 39(a) was called to order at 0937, 10 December 2012.]

2 MJ: This Article 39(a) session is called to order. Let the  
3 record reflect that all of the parties present when the court last  
4 recessed are again present in court, except there has been a change  
5 in court reporters. Major Fein?

6 TC[MAJ FEIN]: Yes, ma'am. Mr. Dennis Robertshaw is absent, and  
7 Mr. Robert [sic] Chavez is present and has been previously sworn.  
8 Also, the witness is not currently present, but waiting, Your Honor.

9 MJ: Counsel and I met in a brief R.C.M. 802 conference prior to  
10 coming on the record today. Nothing really substantive was  
11 discussed. We're going to proceed with Chief Barnes today, followed  
12 by some additional witnesses. And we may or may not be through with  
13 those witnesses today. We'll see how it goes. Does either side  
14 desire to supplement what I have said for the R.C.M. 802 conference?

15 CDC[MR. COOMBS]: No, Your Honor.

16 TC[MAJ FEIN]: No, Your Honor.

17 MJ: All right, anything else we need to address before we call  
18 the witness?

19 TC[MAJ FEIN]: No, Your Honor.

20 MJ: Please call the witness.

1 CHIEF WARRANT OFFICER TWO DENISE BARNES, U.S. Marines, was recalled  
2 as a witness for the prosecution, was reminded of her previous oath,  
3 and testified as follows:

4 CROSS-EXAMINATION (CONTINUED):

5 Questions by the civilian defense counsel [Mr. Coombs]:

6 Q. All right, Chief, I want to ask you just a couple questions  
7 about after your decision to have PFC Manning's underwear removed  
8 from him----

9 A. [Responded in the affirmative.]

10 Q. You were contacted by Captain Haberland, correct?

11 A. Yes, sir.

12 Q. And Captain Haberland wanted to address the issue with you  
13 as to what was being done and why, is that correct?

14 A. I'm pretty sure, sir, he asked the question--I think he  
15 said he heard he was on suicide risk. And I said, I didn't put him  
16 on suicide risk, sir.

17 CDC[MR. COOMBS]: I'm handing the witness what's been marked  
18 Appellate Exhibit 441X [handing the document to the witness].

19 WIT: Okay.

20 Q. Is that email look familiar to you?

21 A. [Looking at the document] Yes, sir.

22 Q. And this was the email where Captain Haberland asked you  
23 about why you put PFC Manning on suicide risk, is that right?

1           A.    [Reading from the document] Yes. He said that he heard  
2 that he was on suicide watch and wanted to discuss it, sir.

3           Q.    And then you responded back to him that you--you hadn't put  
4 him on suicide risk, but you had, in fact, removed his underwear--  
5 ordered the removal of his underwear essentially?

6           A.    [Looking at the document] Let me look. There's a bunch of  
7 different chains here.

8           [Pause]

9           A.    Yes, sir, I did talk to him.

10          Q.    And when you spoke with Captain Haberland about the fact  
11 that you were removing PFC Manning's underwear at night ----

12          A.    [Responded in the affirmative.]

13          Q.    ---- did Captain Haberland ever address to you concerns by  
14 the government for that action?

15          A.    Concerns about the government?

16          Q.    From the government for that action?

17          A.    Honestly, sir, I don't recall. I just remember telling  
18 him, no, I did not put him on suicide risk. Yes, I did say that I  
19 would like his underwear to be removed only as a precaution only  
20 between taps and reveille--to clarify that--so he--so he understood  
21 that he wasn't on suicide risk. But I don't recall, honestly, if he  
22 said what is the concern for the government or whatever. He  
23 understood what I did, why I did it, and he just said he wanted

1 clarification so he can brief his chain.

2 Q. Okay, so he wasn't second-guessing your decision?

3 A. I didn't get that impression from him, sir.

4 Q. Now you--you claim--well you testified that no one has  
5 ordered you to hold PFC Manning in a particular status, correct?

6 A. That's correct, sir.

7 Q. And, in fact, you said that if Colonel Choike tried to  
8 order you to do that, you would want documentation of that?

9 A. Right. I just said if I make a decision based on my best  
10 correctional judgment and I'm being told to do something totally  
11 different or being--my hand is being forced, then, yes, I would like  
12 something in writing though.

13 Q. And you had previously stated to the defense that if  
14 somebody ordered you to hold a detainee in a particular way you would  
15 have responded, hey, I'm the brig OIC, I'm the subject matter expert,  
16 that's unprofessional.

17 A. I don't ----

18 Q. Is that not your testimony here?

19 A. Okay, sir, for one, I remember, again, I had a few  
20 conversations with Captain Tooman, and said--I remember saying I make  
21 decisions on my best correctional judgment. And if people force me  
22 to do otherwise, I would like to be covered like I think anybody else  
23 would want to be. But I don't, you know, don't recall saying, well

1 it's profe--I'm the SME, you can't tell me what to do, or having an  
2 attitude like that. The bottom line is, at the end of the day, my  
3 chain of command can give me orders like anybody else; what do I do?  
4 You follow it, but, again, you ask for something to cover you though.

5 Q. Okay, so if you did receive then an order from say  
6 Lieutenant General Flynn to hold PFC Manning in some particular  
7 status, you would have followed that order but requested some kind of  
8 documentation of that order?

9 A. I would have kept Colonel Oltman in the loop and said, sir,  
10 this is what I'm being directed to do. It's not in my best  
11 correctional judgment that we take this action, sir. Because, again,  
12 I would not probably get an email directly from General Flynn--I  
13 mean--you know, that's--they usually go through--go to our--our boss.  
14 And, again, my review--reporting team is Colonel Oltman, my reviewing  
15 officer was Colonel Oltman, so--but, again, had they directed me to  
16 do something that I know, hey, this is not in the best interest  
17 either of that detainee or in my best correctional judgment, I would  
18 have asked my boss, sir, with all due respect this is not the course  
19 of action that I suggest or I would take. And could you somehow get  
20 this documented, you know, that I'm being forced to do it. I mean  
21 sometimes people can call and say things but they're not willing to  
22 put it in writing.

23

1 Q. Now if you had not gotten documentation would you have  
2 followed the order or would you have insisted on documentation?

3 A. At the end of the day, I have to follow orders. That's the  
4 bottom line. But, again, I would make my own note to myself maybe if  
5 I was called on this particular day--some sort of justification.  
6 But, again, sir, at the end of the day, you know, if he says, you  
7 know, Chief Warrant Officer Barnes, this has to happen, and I go to  
8 my chain or him and say, sir, this is against best correctional  
9 advice or practices, at the end of the day if I'm given a direct  
10 order, sir, active duty--it's not what I like--we--you know, I'm sure  
11 anybody else can say, at times--wherever you work--leadership or your  
12 boss may tell you, hey, I want this done this way, you--they respect  
13 you enough to ask your opinion, you give it, they still say, nope, I  
14 want it done this way anyway. So it would not have been an easy  
15 thing to do. I would not have liked it, but at the end of the day  
16 can I disrespect anybody that's senior to me whether it's a three-  
17 star or not. So, again, it's not a--it's not something I would have  
18 been happy to do, but at the end of the day, in the military you  
19 follow orders.

20 CDC[MR. COOMBS]: I'm retrieving from the witness Appellate  
21 Exhibit 441X [retrieving the document from the witness] and handing  
22 the witness Appellate Exhibit 441W [handing the document to the  
23 witness].

1           WIT: Okay.

2           Q.    I want to ask you a few questions about this email chain.

3           A.    Okay.

4           Q.    I'd like you to look at the email from 10 March, that's on  
5 the second page, from Colonel Oltman, I guess, to Colonel Choike ----

6           A.    [Looking at the document] Okay.

7           Q.    ---- and then--and then if you need to go ahead and glance  
8 at the first page as well. And I just want to ask you a few  
9 questions about the email chain, okay.

10          A.    [Looking at the document] Okay. You realize that I'm not  
11 on these emails, so I'm going to need some time to read through it,  
12 okay, sir?

13          Q.    Sure. You take--take the time you need.

14          A.    Okay.

15 [Pause while the witness read through the document.]

16          A.    Okay, sir.

17          Q.    Okay. So if you look at Colonel Oltman's email on the  
18 second page, he says that you were not acting "alone and unafraid in  
19 your decision process with regards to PFC Manning's status and  
20 handling instructions." Is that correct?

21          A.    That's correct, sir. That day in particular when I made  
22 that decision, I--before it was even executed, I called him. I said,  
23 sir, here's what's ----

1 MJ: Who is "him"?

2 WIT: I'm sorry, ma'am. Colonel Oltman.

3 A. And I did explain what was going on and why I made the  
4 decision. He says, okay, he understood that. And that was it, sir.

5 Q. Now he indicates, at least in the email chain, that every  
6 decision with you, much like with your predecessor, Chief Averhart,  
7 was discussed with him and he concurred with all. Is that correct?

8 A. Oh, yes, I would agree with that, sir. And, again, it  
9 wasn't just about Detainee Manning. There were other inmates I had  
10 to brief him on as well. So that was just common practice, sir.

11 Q. But Detainee Manning was the only one that you were doing a  
12 weekly progress report on, correct?

13 A. That's correct, sir.

14 Q. Now you see--if you go to the front page you see Colonel  
15 Choike said he called you on 10 March 2011 because the instructions  
16 he received from Lieutenant General Flynn were best passed on to you  
17 personally. Do you see that?

18 A. [Looking at the document] It says he just got off the phone  
19 with me and let me know the CG's intent.

20 Q. Well, that's what I want to ask you about. So what were  
21 the instructions that you received from Colonel Choike, I guess--I  
22 guess from General Flynn through Colonel Choike?

23 A. Most of the conversation, from what I remember, sir, he was



1 just letting me know--hey, Chief Warrant Officer Barnes, I'm not  
2 second-guessing you or anything you've done--you're not in any  
3 trouble with me--he just said--basically he just said with decisions  
4 that are made now--he says--I don't remember his exact words, but  
5 basically they, I guess, would like to run it through the chain--I  
6 guess past Colonel Oltman first before we actually execute or  
7 something like that. But the bulk of that conversation, sir, that I  
8 can remember is it was just, hey, we're not second-guessing you,  
9 we're not saying you did anything wrong. So he did not call me to  
10 say, hey, you will not do this or from now on you will do this--this  
11 is what General Flynn wants, sir.

12 Q. Okay, so--and I want to kind of--to the best of your  
13 knowledge--I know it's been a little while--but I want to try to  
14 deconstruct that conversation a little bit, okay?

15 A. That's not a problem, sir.

16 Q. All right, so he calls you up and he basically says, hey,  
17 you're not--you're not in trouble. Is that right?

18 A. Yes. He just kind of said, hey, you're not doing anything  
19 wrong or--you know, he just said I'm not second-guessing you--again,  
20 most of the conversations from what I remember was just him letting  
21 me know--obviously they want things differently now. It needs to be  
22 run up the chain first. And not--I guess how I did it by briefing  
23 Colonel Oltman, hey, sir, this is what took place. These are the

1 actions I intend on taking. This is why. So, again, sir, he did not  
2 give me instruction like you will not do this or anything like that,  
3 sir.

4 Q. But it appears that--and I want to see from your  
5 understanding that there was a--hey, Chief, from this point forward  
6 though before you make any changes it has to be briefed up the chain,  
7 is that correct?

8 A. Well, to be honest, sir, I didn't make it--there wasn't any  
9 incidents that I recall--that I can recall that was as huge as the  
10 issue with me saying, hey, I want to remove his underwear. The thing  
11 about it is we've had a couple meetings after that, you know, just  
12 about Manning and getting him the extra help, but about the manpower  
13 issues, shutting down the brig; that kind of thing, but there was  
14 never to my knowledge any other thing where I call Colonel Oltman,  
15 hey, this is going on. I know I have to wait to execute, sir. I'm  
16 standing by for the General's guidance or anything. And I think  
17 General Flynn may have left at that time; he changed over. So I  
18 don't recall, sir, that there was some other situation----

19 Q. Well let's stop for a moment. First of all, the--General  
20 Flynn was still the MCCDC Commander at the time PFC Manning left, is  
21 that correct?

22 A. I don't recall, sir. I know he left. I don't recall the  
23 exact time that he left.

1           Q.    Okay.  Then second, what I want to do is I want to  
2 deconstruct that conversation; not whether or not you ever had to  
3 execute anything, but based upon what Colonel Choike told you.  He  
4 told you that if you're going to make any other changes that that had  
5 to be briefed up first to General Flynn before you actually did those  
6 changes, correct?

7           A.    I don't recall if he actually said those words, sir, again.

8           Q.    What do you recall?

9           A.    I recall, as I stated, sir, he just kind of said, hey, I'm--  
10 -you know, you're not in any kind of trouble or anything.  You guys  
11 are doing great over there.  I'm not second-guessing you--and he--I  
12 guess just kind of said, you know--basically--and I don't, again,  
13 recall the exact words, but just basically what Colonel Oltman is  
14 saying that, you know, they want things briefed all the way up to the  
15 General before they're executed.  So.

16          Q.    And that's what I'm trying to get for your understanding  
17 because looking at the email----

18          A.    [Responded in the affirmative.]

19          Q.    ----it appear that what Colonel Choike is saying is that  
20 making changes without the CG's concurrence at this point is not  
21 going to happen anymore?

22          A.    Yeah, looking his email, sir.

23          Q.    And--and so we--we can read that from the email; that's

1 plain English, but I wanted to see from your understanding with the  
2 phone conversation was that also conveyed to you by the phone  
3 conversation from Colonel Choike to you that changes were not going  
4 to be made until the CG had an opportunity to concur or nonconcur?

5 A. I mean, again, sir, I don't recall his exact words telling  
6 me, hey, Chief Warrant Officer Barnes, from now on when you decide to  
7 take action on anybody or against mostly Manning, you--when you brief  
8 your chain, you wait for it to be executed. Honestly, I think  
9 Colonel Choike felt bad that he made that call to me to be very  
10 honest with you. So, again, it wasn't a very long conversation. I  
11 was kind of shocked 'cause normally the base commander does not call  
12 the Brig OIC.

13 Q. Right.

14 A. So, honestly, for me to try to sit here and say, well, yes,  
15 he absolutely said that? I can't do it, sir. I can only tell you  
16 honestly, you know, what I recall from the conversation.

17 Q. And--and I understand. And that's probably fair not to put  
18 you in a position where you say these are the exact words that he  
19 said to me. But how about I approach this way; when you left that  
20 conversation and that phone was hung up---

21 A. [Responded in the affirmative.]

22 Q. Did you understand that you could no longer make changes  
23 with PFC Manning until the CG had an opportunity to concur or

1 nonconcur?

2 A. I mean, yes, I understood things would be different. But  
3 by that time, sir, I had already been told the gist of the same thing  
4 by Colonel Oltman though.

5 Q. Okay, and--and so from--from your testimony now what I  
6 understand is that you knew that if you're making changes with PFC  
7 Manning unless it was for, you know, life like changes----

8 A. Right.

9 Q. ----like you actually had to make them on the spot, but  
10 those changes would not be made until the CG had an opportunity to  
11 concur or nonconcur?

12 A. Well for the most part from what Colonel Oltman said as  
13 well, sir, yes, he just told me, hey, if you have to make a decision  
14 on something, brief me first and I'll get back to you. I mean so I  
15 understood whether it was from--you know, first from Colonel Oltman  
16 that that would be the case, sir.

17 Q. And as you said that there was never an opportunity or  
18 never a situation where the CG non-concurred with anything that you  
19 did afterwards, correct?

20 A. Say that again, sir.

21 Q. There was never a situation where General Flynn non-  
22 concurred with something that you did after the date of this email?

23 A. No, sir, I never heard--I never heard anything from General

1 Flynn himself or from Colonel Oltman saying, hey, don't do this,  
2 don't do that.

3 Q. And so General Flynn never said--put any email down saying,  
4 Chief Barnes, I think removing his underwear at this point is a  
5 mistake. Give him his underwear back.

6 A. No, sir, I never got an email from General Flynn.

7 Q. And, likewise, Colonel Choike didn't pick up the phone  
8 again and call you and say, Chief Barnes, it's been now a week of  
9 removing his underwear, we think that's a mistake, give him his  
10 underwear back?

11 A. No, sir.

12 Q. And nor did Colonel Oltman?

13 A. No, sir.

14 Q. And I--I guess because none of these individuals said they  
15 disagree with your decision, then all these individuals, as you said,  
16 were telling you they didn't think you were doing anything wrong?

17 A. Well, in general they talk about my overall running of the  
18 brig, sir. Again, it's not just about Manning. There were other  
19 MAXs, other SR, other POIs that they got briefed on. Granted they  
20 did not request that weekly progress reports on the other ones, but  
21 just in general because they understood the issues with the staff  
22 getting threatened. They understood the protests and all these  
23 things that can have an adverse effect on the staff. So, again, when

1 they said it, they just honestly from--you know, feedback with  
2 Colonel Oltman from time to time was just like, hey, overall you're  
3 doing a good job running the brig. And they're writing my fitness  
4 reports every year, sir. So that's kind of one way to let me know I  
5 am executing my duties to their satisfaction or beyond their  
6 satisfaction.

7 Q. Yeah, and specifically Colonel Choike, when he made this  
8 call to you, he told you, hey, we're not disagreeing with anything  
9 you did, you're not in trouble, we're not saying you did anything  
10 wrong, is that correct?

11 A. Right, generally, sir, that's what I can recall.

12 Q. Now you were at a meeting on 14 January 2011 prior to  
13 taking command where Colonel Oltman was present, Captain Hocter was  
14 there--

15 A. Yes, sir.

16 Q. ----do you recall that?

17 A. Yes, sir.

18 Q. And at that meeting do you recall a--kind of a heated  
19 discussion between Colonel Oltman and Captain Hocter?

20 A. I remember there was a little exchange, sir, vaguely.

21 Q. All right, do you recall Captain Hocter raising the concern  
22 that he didn't understand why PFC Manning was still on POI;  
23 prevention of injury?

1           A.   He could have, sir. I wasn't very close to them. It was  
2 on the mess deck where we had that meeting at. And, of course, I had  
3 not taken over the brig yet. So I just didn't feel it was my place  
4 to be all in the forefront or answering questions. It was an issue  
5 on--on--I guess the whole POI thing--but, again, that was just one of  
6 those times, too, where the discussion of we understand what your  
7 role is, understand ours kind of thing. So I don't recall the exact  
8 words or whatever, but other people were chiming in as well 'cause  
9 there were quite a few people there.

10          Q.   Right. And this meeting was--when you say mess deck, this  
11 was at the brig, correct?

12          A.   Yes, sir.

13          Q.   And how large of a room was this meeting in?

14          A.   It's pretty big, but it had a wall. So I would say maybe  
15 from where I'm sitting at, sir, to, I'd say, maybe a few pews down or  
16 something like that--not as wide though 'cause, again, it's a big  
17 area. But there is a wall that separates where they sit down to eat  
18 and the other part where the food is served and where the drink  
19 machines are.

20          Q.   Would you agree with me from where you sit to a couple of  
21 pews back maybe about 25 feet--30 feet long?

22          A.   Probably that or less, sir. It could be a little less, I  
23 guess.



1 Q. And how--about how wide do you think the room was?

2 A. Definitely not as wide as the courtroom, sir. Probably

3 maybe from that wall to about maybe here--to where this little boxed-

4 in area is maybe, sir.

5 Q. Okay. And it's probably 20 feet, maybe?

6 A. Probably, sir, I--I mean.

7 Q. That sound about right to you?

8 A. It just looks closer in proximity, sir. It could be a

9 little smaller, a little bigger, sir.

10 Q. All right. So a room where definitely if you're in the

11 room you can hear other people speak?

12 A. Right.

13 Q. And do you recall Captain Hocter telling Colonel Oltman

14 that he didn't believe that there was a medical reason for prevention

15 of injury, and preferred that they didn't keep PFC Manning in

16 prevention of injury?

17 A. I don't remember the exact words, sir. But, again, there

18 were a bunch of other people there--people were kind of talking over

19 each other. So, to be honest with you, I don't recall.

20 Q. Okay, and when you say you don't recall it's just I don't

21 remember it--it's not that you don't think that happened?

22 A. I just don't remember it, sir. I mean, honestly, you know,

23 with both of them going back and forth, other people are talking.

1 You got to remember in the brig it's loud. There are announcements  
2 going also throughout the course of the day announcing different  
3 things; work-call, chow, that kind of thing. So--medication calls.  
4 So to be honest with you, even though, yes, we were all in that room,  
5 it's--you're not going to hear every single thing, you know.

6 Q. But do you recall Colonel Oltman raising his voice and  
7 telling Captain Hocter that, look, nothing's going to happen to PFC  
8 Manning on my watch?

9 A. Honestly, sir, I don't remember. Again, I remember voices  
10 raised. They were exchanging some words. But, again, other people  
11 were kind of talking over each other. So I don't recall him saying  
12 that, sir. All I know is from the time I took over to there, he  
13 never told me, hey, he will remain in this custody or this status or  
14 anything like that. So, honestly, I don't recall what him and, you  
15 know, Doctor Hocter was saying to each other as far as whether it was  
16 him saying, no, he'll stay in that, you know, status or not.

17 Q. All right, so I take it from your answer you don't recall  
18 him saying also that our way of making sure of that is he'll stay in  
19 MAX and POI indefinitely. Do you recall Colonel Oltman saying that?

20 A. No, sir.

21 Q. And when you say "no" are you saying I don't remember that  
22 happening or, no, I don't--that he didn't say that?

23 A. Sir, if I don't remember something I'm going to tell you I

1 don't remember. And I just explained----

2 Q. No, that's what I'm just trying to clarify. Are you  
3 saying, no, I don't remember, or are you saying, no, that didn't  
4 happen--he didn't say that?

5 A. Sir, I'm telling you I don't remember.

6 Q. Okay. Now obviously, as you've pointed out, Colonel Oltman  
7 is your boss?

8 A. He was my reporting senior, yes, sir.

9 Q. And if Colonel Oltman wanted PFC Manning to be in MAX and  
10 POI, as you said, you would follow that order?

11 A. Well, you asked me about General Flynn. But, okay--but if  
12 he did that, again, sir, I would brief him and say, sir, this is  
13 against best correctional practices. But if you're giving me a  
14 direct order and telling me to do it, execute. But, again, I will  
15 make my own notes to myself.

16 Q. Okay. Now from this conversation as far as between Captain  
17 Hocter and Colonel Malone did you get the sense that there was at  
18 least a disagreement with how PFC Manning was being held between  
19 Captain Hocter and Colonel Malone--and Colonel Oltman, sorry?

20 A. Okay, I see what----

21 Q. I know you don't recall the conversation, but from  
22 witnessing the conversation between Colonel Oltman and Captain  
23 Hocter, did you get the sense that there was a disagreement with how

1 PFC Manning was being held?

2 A. Yes, sir, that's the sense I got because, again, that  
3 wasn't the only time where the issue came up. I mean I never worked  
4 with Captain Hocter, but just, again, from either reviewing his books  
5 or just getting briefed by the staff, there were some issues there.  
6 But, again, there was some sense that, okay, they didn't agree.

7 Q. Okay. And after that con--after that meeting did you have  
8 a conversation with Chief Averhart?

9 A. Did I have a conversation with Chief Averhart----

10 Q. Right, you were doing kind of----

11 A. ----about----

12 Q. ----a--you're kind of a right seat.

13 A. We were doing--yeah, we were--I was following him around  
14 asking him questions, changing over. I mean, I could have talked to  
15 him about anything. I don't recall talking to him specifically about  
16 that--you know, that conversation. Again, he still had the brig; I  
17 was just doing my best to do the changeover and learn and not step on  
18 his toes or make decisions on anything, sir.

19 Q. Right. So what I was asking you is after this meeting do  
20 you recall having a conversation with Chief Averhart about what was  
21 said?

22 A. I don't recall, sir. I mean, again, this is--you know,  
23 during that changeover we talked a lot about different things. I

1 don't recall after this meeting having a discussion about him--to him  
2 or with him about the meeting, sir.

3 CDC[MR. COOMBS]: Now I want to show you again Appellate  
4 Exhibit 441S [handing the document to the witness], and retrieving  
5 from the witness Appellate Exhibit 441W [retrieving the document from  
6 the witness].

7 Q. You see the original email is from Colonel Choike to who?

8 A. [Looking at the document] To General Flynn, sir.

9 Q. And the email is a report from Colonel Choike to General  
10 Flynn essentially backing up your decision, would you agree?

11 A. [Looking at the document] Let me read the email, sir. I  
12 wasn't on it. So let me read it and see what it says, okay?

13 Q. Sure.

14 A. Thank you.

15 [Pause while the witness read the document.]

16 A. Yeah, he's--he's just telling him about the issues now with  
17 the change of him having his blankets and that kind of thing. And  
18 that basically the board goes every Friday. He'll remain as is, but  
19 handling instructions can be changed at any time based upon his  
20 observed ongoing behavior.

21 Q. Right. But you see there where Colonel Choike is telling  
22 Colonel Flynn--or excuse me, General Flynn what--what has happened.  
23 And this email gets to you and you forward it to Master Sergeant

1 Papakie, correct?

2 A. Right.

3 Q. And your message to him is "This is what our  
4 professionalism, knowledge, and hard work yields. I'm proud to have  
5 you and the rest of the gang on my staff," correct?

6 A. Right--yes, sir.

7 Q. So it was your belief that your professionalism, knowledge,  
8 and hard work yielded the support of your superiors; Colonel Choike  
9 and how he's briefing General Flynn, correct?

10 A. Well, not just in that, but just in general, hey, look,  
11 when we work hard, do the right things, and the leadership sees that,  
12 it reflects good on us. That's--that was basically my gist. This is  
13 not the first time I've emailed Master Sergeant or the staff to tell  
14 them, hey, good call--it happened--and things that had nothing to do  
15 with Manning. So this kind of email is something that I would  
16 routinely send when there're issues. For example; we had an issue  
17 with a visitor breaching security--making a big deal in the brig--  
18 disturbing the good order and discipline. No matter what that lady  
19 said, the guys were very professional. When I was briefed on it the  
20 next day--told them basically the same thing.

21 Q. Yeah, but in this email I guess what you're sending out to  
22 your subordinates is that Colonel Choike agrees and is at least  
23 briefing General Flynn that he agrees with what is happening and how

1 PFC Manning is being handled, correct?

2 A. Yes, sir.

3 CDC[MR. COOMBS]: I'm retrieving from the witness Appellate  
4 Exhibit 441S [retrieving the document from the witness], and I'm  
5 handing the witness Appellate Exhibit 441Y [handing the document to  
6 the witness].

7 Q. And just a--a few days later--this is a 9 March 2011 email.  
8 You were forwarded an email chain, which contained emails from many  
9 individuals including Major General Ary, correct?

10 A. [Looking at the document] Yes, sir.

11 Q. And you in turn forward this email to Master Sergeant  
12 Papakie?

13 A. I did, sir.

14 Q. And you wrote [reading from the document] the big thing is  
15 that Major General Ary is saying that he thinks we are doing business  
16 the right way, correct?

17 A. That's correct, sir.

18 Q. So you took the statement as validation from at least a--  
19 the highest military attorney in the Marine Corps that your decision  
20 to have--to remove PFC Manning's underwear was the correct one?

21 A. [Looking at the document] Let me just take a minute to scan  
22 through these chains of email. It seems like a couple of different  
23 things were covered in here.

1 [Pause while the witness read through the document.]

2 A. Yes, in some parts of the email string--yes, General Ary  
3 did say that.

4 Q. So you took basically this email chain as a validation that  
5 your decision was the correct one?

6 A. I don't think it's my--my decision to remove his underwear,  
7 sir. If you look at the email chain, it's kind of in general on how  
8 the facility's running. Chief Warrant Officer Galaviz said that for  
9 the most part all the facilities are running properly. So I'm sure  
10 that's one of the things. But just in general--the way the pretrial  
11 facility is run in general, they were also taking about that. So  
12 this email--when I forwarded that to Master Sergeant was just to  
13 basically say, hey, you know, they think we're doing business the  
14 right way. I mean--he's--General Ary had came down to the brig along  
15 with a host of dignitaries to see the facility, ask questions--they  
16 were all satisfied. But, again, when you're staff is under stress  
17 from being threatened, from these protests, and all these things that  
18 occur--I mean, I feel it's nice to let them know, even though I tell  
19 them myself, hey, you're doing a good job every day--and it's not  
20 just about Manning--just in general. But I guess it's good when they  
21 see or hear that somebody outside the brig at that level who's  
22 getting briefed by the head of corrections that, hey, they're doing  
23 business the right way. I mean it helps to--me personally--my



1 opinion, it just helps to, one, help them maintain that level of  
2 professionalism and make them just as eager, if not more eager, to  
3 continue to be professional.

4 Q. All right. But obviously Major General Ary, when he came  
5 down to the brig, it was because of PFC Manning, correct?

6 A. Yes.

7 Q. And you write [reading from the document] FYI, the big  
8 thing is that Major General Ary is saying that he thinks we're doing  
9 business the right way. Are you saying that's referring to  
10 everything in general or referring to Manning?

11 A. Honestly, just in general, not just related to Manning----  
12 because him along with the other dignitaries did not just ask us  
13 about Manning. They asked us about, you know, things we did in the  
14 facility, what are the policies for this, they asked about rec call,  
15 they asked about things like chow. So when they understood that I  
16 eat in the chow hall just about every day because that allows me to  
17 see, okay, if I'm eating this this is what I know the detainees are  
18 eating that kind of thing. So to be very honest, yes--was Manning  
19 the main reason for the visit? Yes he was. But they--Major General  
20 Ary and the other dignitaries--they didn't just have questions on his  
21 handling. For example; they asked about a lot of other things as  
22 well.

23 CDC[MR. COOMBS]: I'm retrieving from the witness Appellate

1 Exhibit 441Y [retrieving the document from the witness], and handing  
2 the witness Appellate Exhibit 441Z [handing the document to the  
3 witness].

4 Q. Now this is an email that you received basically from  
5 Lieutenant General Flynn. He sent an email that he entitled "Hardly  
6 Waterboarding." It basically said that I was masterminding a scheme  
7 to portray my client as a victim. Do you recall this email?

8 A. [Looking at the document] Let me correct you real quick,  
9 sir. He didn't email me. I got that email from Colonel Oltman.

10 Q. Oh, I know. I'll cover that.

11 A. Well you said General Flynn, sir. So I just want to make  
12 is clear----

13 Q. Sure.

14 A. ----that he didn't email me, okay?

15 Q. Oh, that's clear.

16 A. Okay.

17 Q. All right, so you see the email where General Flynn  
18 forwards up to Colonel Oltman and Colonel Choike and others----

19 A. [Looking at the document] Okay.

20 Q. ----and he says hardly waterboarding. Do you see that?

21 A. [Looking at the document] That's the title, sir. But,  
22 again, I didn't--it's been awhile, sir. I'll have to read the email  
23 to see what else he's discussing.

1 Q. Go right ahead.

2 A. Okay.

3 [Pause while the witness read the document.]

4 A. Yes, the article from the daily news--it looks like that's  
5 what he had forwarded and--that's what the subject line said. But it  
6 looks like the article was forwarded from somewhere.

7 Q. And Colonel Oltman then sends it to you, correct?

8 A. Yes, sir.

9 Q. And then you forward it to Master Sergeant Papakie, Gunny  
10 Sergeant Blenis, and Gunny Sergeant Fuller?

11 A. That's correct, sir.

12 Q. And I imagine you took this as further validation that you  
13 didn't do anything wrong?

14 A. I mean I wouldn't go so far to say I took that as  
15 validation I didn't do anything wrong. I mean when you read the  
16 article--that is a journalist or somebody's opinion on what's going  
17 on. Naturally I don't know what your client tells you or what you  
18 tell anybody else. But, again, this is just an article, yes, for  
19 them to see, okay, this journalist from this paper is saying, you  
20 know, okay, hardly waterboarding. And this kind of behavior disturbs  
21 me. I don't agree with it. It's not something that you enjoy  
22 reading. But at the same time, again, it's just one of those things  
23 where, you know--and, you know, I guess it would be kind of hard for

1 you to imagine, sir--I'm not being facetious or anything like that,  
2 but I guess when you go through that type of stress every day, and I  
3 still demand that they're professionals--that kind of thing, it's  
4 good to see that, you know, despite what's reported in the media--  
5 okay, well maybe one person decided this--this is not an Abu Ghraib.  
6 The Marine Corps hasn't had torture of detainees anywhere. As a  
7 matter of fact, when I was deployed, I was a detentions evaluation  
8 assessment program OIC. And my job was to make sure that those  
9 detainees over there, regardless of what the charge--what the charges  
10 were, were handled properly. So whether I went on convoys, whether I  
11 inspected the--the--the detainee collection points, these kinds of  
12 things, I was very big on how they were treated. Submitted after  
13 action reports--and that's one of the jobs I really took pride in  
14 doing.

15 Q. Okay. So I want to go back for a moment to I guess your  
16 statements of professionalism, knowledge, and hard work of your  
17 staff. Okay?

18 A. Okay, sir.

19 Q. Now in your opinion was Master Sergeant Papakie  
20 professional?

21 A. Yeah, with my interactions with him, sir.

22 Q. And as far as Master Sergeant Papakie, I imagine you  
23 trusted his opinions, correct?

1           A.    I did, sir. I mean, he'd been in close to 20 years, maybe  
2 a little bit more. And I've--I--when he was at the Marine Absentee  
3 Collection Unit, I was at the brig at Lejeune at the time, and I had  
4 to do a lot of business with him on the phone. I always remembered  
5 him be very professional, knowledgeable. Saw him in Iraq. From what  
6 I hear he was doing a good job there as well. So.

7           Q.    Now on 4 March after you started removing PFC Manning's  
8 underwear at night, did you ask Master Sergeant Papakie to ensure  
9 that PFC Manning was given his panties back before he lays down?

10          A.    I didn't say that, sir.

11          Q.    So the word "panties" would not be a word that you would  
12 use?

13          A.    No, sir.

14          Q.    And is that a term that Marines use for male underwear?

15          A.    I know some drill instructors--they--from what I  
16 understood, you know, they'll make, you know, jokes about that kind  
17 of thing. Or they'll say skivvies--they call it different things.  
18 But me personally, I wouldn't say, hey, make sure his panties are  
19 removed at night.

20          Q.    Why wouldn't you say that?

21          A.    I mean I prefer to say underwear, sir. It's just that  
22 simple.

23          Q.    Well would you consider using the word "panties" to refer

1 to PFC Manning's underwear as professional?

2 A. Of course not, sir. Whether it was the term they used with  
3 recruits or anybody.

4 Q. And why is that?

5 A. Again, sir, I just--it is underwear. Whether it's boxer  
6 shorts, whether it's females' panties, whatever, there's a clear  
7 difference. So I--I prefer the term underwear, period.

8 Q. Did you know that Master Sergeant Papakie called PFC  
9 Manning's underwear panties to his subordinates; Gunny Sergeant  
10 Blenis, Staff Sergeant, I guess, Bofo [phonetic], Staff Sergeant  
11 Buck, and Gunny Sergeant Fuller?

12 A. I wasn't aware of that, sir.

13 Q. Now if you had known of that what would be your reaction?

14 A. Obviously I would tell them, hey, don't refer to them as  
15 panties. I mean--it's not fun--I don't think it's funny, sir.

16 Q. Okay. And you also indicated that two of the most  
17 important people at the brig, at least for PFC Manning to speak to,  
18 would be yourself and to his counselor, correct?

19 A. I--yes, sir. I recall saying that, sir.

20 Q. And PFC Manning's counselor was Gunny Sergeant Blenis?

21 A. That's right, sir.

22 Q. And you believe that the role of a counselor is to be an  
23 advocate for the detainee?

1           A.    That's right, sir.

2           Q.    Someone that the detainee can trust and open up to?

3           A.    Yes, I would say so, sir.

4           CDC[MR. COOMBS]:    I'm retrieving from the witness Appellate  
5 Exhibit 441Z [retrieving the document from the witness], handing the  
6 witness Appellate Exhibit 441AA [handing the document to the  
7 witness].

8           TC[MAJ FEIN]: Ma'am, objection. The witness is not on this  
9 email----

10          MJ:   May I see it, please?

11          TC[MAJ FEIN]: ----and it's predated her even arriving at  
12 Quantico.

13          MJ:   And what's the point of this? It's already been gone  
14 through with the other witnesses.

15          CDC[MR. COOMBS]:    The point, ma'am, would be that she  
16 testified about Gunny Sergeant Blenis' ultimate professionalism. And  
17 so I'd want to see whether or not this would, I guess, in her opinion  
18 question his professionalism.

19          MJ:   Hand it to the court, please?

20          CDC[MR. COOMBS]:    Yes, Your Honor. That's your copy [handing  
21 the document to the military judge].

22          MJ:   Overruled.

23          CDC[MR. COOMBS]:    I'm handing the courtroom exhibits to the

1 court reporter.

2 [Examination of the witness continued.]

3 Q. Now as the trial counsel pointed out you--this was before  
4 your time, but have--have you ever see this email?

5 A. [Looking at the document] Obviously not, sir. I mean----

6 Q. Well, I don't know. I just--have you ever seen the email?

7 A. [Looking at the document] No I have not. I'm not on the  
8 email. And Chief Warrant Officer Averhart don't talk to me about  
9 everything he talks about with his staff. I mean.

10 Q. Now in this email chain Gunny Sergeant Blenis talks about  
11 sending back a package that they believe might have been a birthday  
12 gift for PFC Manning. And he talks about the various reasons why.  
13 And then he ends it because we "felt like being dicks." Do you see  
14 that?

15 A. [Looking at the document] Okay.

16 Q. And, again, in this instance would you consider that a  
17 professional action by Gunny Sergeant Blenis?

18 A. I mean, sir, obviously it's an unprofessional comment. The  
19 main point was that he told the CO why that package was returned;  
20 obviously for his safety. Do you understand that some packages we  
21 had to have EOD scan it at the post office. Let me tell you  
22 something, sir----

23 Q. [Responded in the affirmative.]



1           A.    ----I don't take this crap lightly.  Okay?

2           Q.    [Responded in the affirmative.]

3           A.    The point is, you know--and we felt like being dicks,  
4   excuse me, is--is not professional.  We know that.  I'm not going to  
5   sit here for an hour and discuss that.  But that is not something I'm  
6   going to use now to say after all the years off and on of knowing  
7   Gunny Sergeant Blenis and him working for me and looking at the  
8   products that I got from him every day not just with him handling  
9   Detainee Manning, but other people, I'm not going to take this one  
10  little comment now--all of a sudden he's not so professional, he's  
11  not the Marine staff NCO I want on my staff.  Like I told you before,  
12  I told you again, it'll be a very welcomed opportunity to work with  
13  him again.  Before he left, he got a Navy commendation medal.  Again,  
14  highlighting all the stuff he's done.  So if one comment like this,  
15  which we all can agree is not professional, if you want me to say  
16  that that's going to change my mind and think he's so unprofessional--  
17  -I have no confidence in him as a Marine staff NCO, you're not going  
18  to get me to say that.

19          Q.    Well--and I'm not trying to get you to say that.  But Chief  
20  Averhart indicated that he counseled Gunny Sergeant Blenis on this.  
21  Would you have done the same?

22          A.    Obviously, sir, yes.  I mean----

23          Q.    And would you have removed Gunny Sergeant Blenis as PFC

1 Manning's counselor after this?

2 A. No, sir, I would not have.

3 Q. And why not?

4 A. Because, again, this is one small comment--okay--one small  
5 comment. The bottom line is, that package--the most important thing  
6 to me is that some package, which was delivered not the correct way  
7 by the U.S. Postal Service--that's the biggest issue to me.

8 Q. [Responded in the affirmative.]

9 A. I don't know what's in there. I don't want something to  
10 friggin' explode and hurt Manning or the staff. That's the biggest  
11 thing to me. Okay? Now--yes, I would have corrected him and said,  
12 hey, let's not refer to that--and, again, you know, even the email  
13 you just cited from Master Sergeant to the DBS's; did you see me on  
14 that email? No. Maybe he--he figured, okay, she doesn't joke like  
15 that.

16 Q. Okay. Now you--you indicated that you would have had EOD  
17 look at packages, and you've done that in the past, right?

18 A. There was--there was an incidence once where a package came  
19 in. It was very unusual. And the post office called us. They were  
20 not good with that. And, yes, we did have to call AFTP and, yes, EOD  
21 did scan that package.

22 Q. Now my understanding is if--if a package got to you in a  
23 way that would not be the ordinary, and you scan the package and it

1 was cleared, would you then return the package or would you give the  
2 detainee the opportunity to accept the package?

3 A. Well for one, sir, if they just walk up to the brig to hand  
4 us something, no, we will not accept it. The thing about it is--I'm  
5 sure it says right here--because for the most part you have to  
6 understand detainees are given their--the mailing address here.  
7 They're told do not put detainee or prisoner so and so. They  
8 understand when packages come in they need to be approved ahead of  
9 time, whether it's books, whether it's hygiene items, whatever the  
10 case is. So the inmates all know that. So for somebody to just walk  
11 up--and they tell their families that because they get mail the right  
12 way through the postal system--the mail clerk goes down there. So  
13 for somebody to just walk up, hey, give this to Manning; no, we're  
14 not going to put him at risk like that.

15 Q No, the situation I think was that UPS had dropped it off  
16 to a construction worker that was outside the front of the brig at  
17 the time the brig had construction going on.

18 A. Okay.

19 Q. And so the construction worker just brought it to the  
20 front. I just wanted to understand from your standpoint if you  
21 receive a package you're not aware of that--do you give opportunity  
22 to the Soldier then to look at the package and try to accept it?

23 A. It's rejected. No, sir. Again, especially with an

1 instance like this, for one, UPS and FedEx, they've come to the brig  
2 before, and they always know to come inside to the staff. So for  
3 them to even give it to somebody out there, that's--that's very odd.

4 Q. Okay. And with regards to Gunny Sergeant Blenis, did you  
5 know that he referred to the weekly report as the Manning Times and  
6 something that would warm you if you were to read it?

7 A. I don't recall him saying anything like that to me.

8 Q. Would you consider referring to the weekly report as a  
9 Manning Times to be professional?

10 A. I mean, sir, anybody can take that any different way. But,  
11 again, if he says it, I would say, well, what do you mean? Or why  
12 are you referring to it like that? But, again, sir, [pause]

13 Q. Go on. I'm sorry.

14 A. I mean--but, again, what--okay, if he says--if he refers to  
15 some--the progress report as the Weekly Manning Times--again, sir,  
16 you have to understand something, even though these things--with  
17 comments like that could seem, okay, they're a little bit  
18 unprofessional, but at the end of the day, if--and I'm not saying I  
19 condone a lot of unprofessionalism--what I'm saying if they make  
20 little jokes like that--yes, would I say something? Yes. But at the  
21 same time it's not something that they'll be severely punished for.  
22 I mean, maybe with the stress and everything else that's going on the  
23 facility, if joking maybe was their way to deal with it, who knows.

1 Q. Well would these jokes be condoned if they're at the  
2 expense of PFC Manning?

3 A. I mean I just told you, sir, I didn't think those things  
4 were funny. All I'm telling you is if--and, again, some of the  
5 things you pointed out wasn't even said to me. So, again, like I  
6 told you, you know, if I came across it, I would say, hey, you know,  
7 knock it off. I mean nobody's going outside the brig making jokes  
8 about Manning or telling, you know, hey, in the latest edition of the  
9 Manning Times--I mean, come on, sir.

10 CDC[MR. COOMBS]: All right. I'm retrieving from the witness  
11 Appellate Exhibit 441AA [retrieving the document from the witness],  
12 and handing the witness Appellate Exhibit 441AB [handing the document  
13 to the witness].

14 Q. This is an email from Gunny Sergeant Blenis to you saying  
15 attached is the latest Manning Times. Did you do any actions based  
16 on that email?

17 A. [Looking at the document] Honestly, sir, I'm--I probably  
18 said something to him because I'm also forward--when he sends those,  
19 you know, you look at the Subject: Manning Report, double-click the  
20 attachment--that was my biggest--in getting to the attachment. So  
21 looking at it--for me to say, you know, yes I definitely said, hey,  
22 Gunny, knock this off. Or, no,--again, it's probably something I  
23 could have addressed, but it's not something--again, I see the

1 subject report--the subject line says Manning Report, open the  
2 attachment real quick.

3 Q. Okay, but if I understand you correctly, that would be  
4 something that you would counsel Gunny Sergeant Blenis on to knock it  
5 off?

6 A. I mean I wouldn't--yeah, I would just say, hey, you know,  
7 this is not the Manning Times or whatever the case is or something  
8 like that. But, again, sir, in the grand scheme of things, this is  
9 not something that when outside, you know, security battalion--  
10 outside to Colonel Oltman--again, see the subject line, double-click  
11 the attachment--my thing is, hey, let me hurry up and read this. Let  
12 me see if he had visitors; that kind of thing. So to be honest and  
13 say, you know, every single time he sent it, you know, to read that--  
14 but that's something if I would have caught it or saw it at the time,  
15 that's something I would have said something to him about.

16 CDC[MR. COOMBS]: Okay. I'm retrieving from the witness  
17 Appellate Exhibit 441AB [retrieving the document from the witness].

18 Q. I want to ask you a few questions about the SECNAV  
19 Instruction, okay?

20 A. Okay.

21 Q. And so I'm going to hand you Enclosure 47 to Appellate  
22 Exhibit 259 [handing the document to the witness].

23 A. All right.

1 MJ: What are you looking at?

2 CDC[MR. COOMBS]: The SECNAV Instruction, ma'am.

3 Q. Now we have had some testimony, and you've referred to it

4 as well, of prevention of injury, correct?

5 A. Yes, sir.

6 Q. And I want to ask you under the SECNAV Instruction where

7 that falls under, okay?

8 A. Okay.

9 Q. So if you would turn to Page 104, it should be towards the

10 very back, Chief.

11 [The witness did as directed.]

12 A. [Looking at the document] Okay.

13 Q. And do you see that--you're dealing in the section of

14 administrative segregation, is that correct?

15 A. [Looking at the document] Let me look at this real quick.

16 Well it's talking about that Section 4205 talking about Special

17 Quarters--and just that some prisoners require additional

18 supervision, yes.

19 Q. Right. That section is the administrative segregation

20 section, is that--is that correct?

21 A. [Looking at the document] Yes, part of it talks about a

22 hearing to determine the need for continued administrative

23 segregation.

1 Q. And do you--do you see where administrative segregation is  
2 appropriate--what they--what they say would be--when that would be  
3 appropriate?

4 A. [Looking at the document] Well let me take a look here.

5 MJ: Are you looking at 104?

6 CDC[MR. COOMBS]: Page 104, ma'am.

7 MJ: That's entitled "Special Quarters."

8 CDC[MR. COOMBS]: Right. That's the administrative  
9 segregation section of the reg.

10 WIT: Well it's----

11 MJ: Why don't we call it what the SECNAV Instructions call it?

12 CDC[MR. COOMBS]: Sure. Even within the special quarters it  
13 refers to it as administrative segregation, correct?

14 WIT: Well, special quarters is not referred to as  
15 administrative segregation. This paragraph here is talking about,  
16 again, it--just in special quarters in general--'cause as I explained  
17 the other day, most facilities, the prisoners for the most part after  
18 indoc, they live in a dorm or single cells. And the ones that are  
19 rem--the ones that remain in special quarters could be for medical  
20 segregation, escape risk, POI, SR, prevention--or protective custody;  
21 those kinds of things. So.

22 Q. Right. So generally what would happen is--and I know  
23 Quantico is slightly different ----



1           A.    Right.

2           Q.    ---- but generally you would have a--your MDI's in general  
3 population where it would be open bay type issue, correct?

4           A.    Well previously--prior to 2010, before it was downgraded to  
5 a PCF, then, yes, that's how it would be. But, again, his--Manning's  
6 entire time there, to my knowledge, it was already determined that  
7 all of the inmates would be housed in special quarters.

8           Q.    Right. And then special quarters prior to kind of like the  
9 change, special quarters was for your--you administrative  
10 segregation; either your medical ----

11          A.    Right.

12          Q.    ---- or prevention of injury. Is that correct?

13          A.    Right.

14          Q.    Okay. So I'd like you to look at the--the section dealing  
15 with prevention of injury. Do you see where special quarters can be  
16 used by you, the Brig OIC, for prevention of injury?

17          A.    [Looking at the document] Oh, yeah.

18          Q.    And so basically this--could you explain to me from your  
19 perspective as a Brig OIC when you would use admin' segregation or  
20 special quarters for prevention of injury in general--on in this  
21 case, but just in general?

22          A.    I'm not quite sure what you're asking me, sir.

23          Q.    So as a Brig OIC ----

1           A.    Uh-huh.

2           Q.    ---- just from your prospective, when would you use special  
3 quarters for prevention of injury--just in general--not dealing with  
4 PFC Manning, but in general.

5           A.    If they're in POI, sir, then, yes, we will place--if you're  
6 talking about a brig--a regular brig prior to--not how Quantico is or  
7 was before it closed--but if you're talking about a standard Level 1  
8 facility where they're special quarters and their living quarters for  
9 the rest of the population. If you're asking me in a jail that's set  
10 up like that ----

11          Q.    [Responded in the affirmative.]

12          A.    ---- then, yes, I would use special quarters for POI for  
13 any administrative segregation; again, medical segregation, POI, or  
14 something like that.

15          Q.    Okay, and I'd like you to look on Page 105 just for a  
16 moment.

17          A.    [Looking through the document] Okay.

18          Q.    Where it talks about all prisoners in special quarters  
19 shall be under continual supervision.

20          A.    [Looking at the document] Okay.

21          Q.    [Reading from the document] Special precautions shall be  
22 taken in equipping, inspecting, and supervising their quarters,  
23 prevent escape, self-injury, and other serious incidences.

1           A.    Okay.

2           Q.    [Reading from the document] They shall be sighted at least  
3 once every 15 minutes by a staff member and shall be visited daily by  
4 a member of the medical department and the BRIG O.

5           A.    Okay.

6           Q.    [Reading from the document] In addition, it is highly  
7 desirable that prisoners in special quarters be visited daily by a  
8 chaplain.

9           A.    Uh-huh.

10          Q.    Now in this instance it says that somebody from the medical  
11 department has to visit the detainee every--every day when they're in  
12 special quarters, right?

13          A.    [Reading from the document] Yes, sir; shall be visited  
14 daily by a member of the medical department.

15          Q.    And it also says that's highly desirable to have the  
16 chaplain visit every day ----

17          A.    Uh-huh.

18          Q.    ---- if possible?

19          A.    That's right, sir.

20          Q.    And then, finally, to have you as the BRIG O visit every  
21 day?

22          A.    Uh-huh.

23          Q.    And why as a corrections expert would you say that you want

1 to have a medical--somebody from the medical department, the  
2 chaplain, if possible, and the Brig OIC visit a detainee who's in  
3 admin' segregation or special quarters?

4 A. Well just--to be honest, sir, when they come to the  
5 facility they look at everybody. Okay, I know this is talking about  
6 special quarters, but they just mean more so for the ones who are  
7 not, I guess, in general population 'cause those prisoners, they  
8 would be out and about working, maybe outside the facility, on the  
9 mess deck, whatever, but obviously, you know, the ones that are in  
10 special quarters normally are MAX custody inmates, some of them are  
11 not MAX custody inmates, however, they are medic--medical seg' or if  
12 they are POI or SR--yeah, it's desirable to have these members come--  
13 obviously the chaplain--I like that inmates still get to maintain  
14 their religion. As a matter of fact, if--well when we had detainees  
15 who weren't, you know--like say for example an inmate who's a Muslim,  
16 for example, we know that the--the chaplain is not an Islamic  
17 chaplain, however, we would tell him, hey, Chaplain Rosenthal, could  
18 you call D.C. or call around and get an imam to come to the brig;  
19 that kind of thing. So I think it's important--it's important  
20 personally 'cause whether they confine--they're confined or not, they  
21 need to still exercise their religion, and we make provisions. We've  
22 had Islamic inmates at various brigs I've worked at before. We knew  
23 during Ramadan when they had to pray--get up early; we made

1 provisions for that. We've had chow ready for 'em. It was earlier  
2 than when the other prisoners got up--reveille and all that kind of  
3 stuff. But, again, we took the measures, which was just easy, to  
4 have oatmeal or something quick for them to have before that. We  
5 also realized that they need to eat because they have to fast. But  
6 we made sure that even though the mess hall was already shut down, we  
7 always made sure that they had food ready and fruit to break the  
8 fast. So as far as the religion piece; that's very big to me--just  
9 for my personal practices, but for inmates as well. They need to  
10 have that opportunity.

11           As far as the medical officer; that's very important. I  
12 get upset if I find out they're out of med's or somebody's refill--  
13 prescription wasn't refilled on time; that kind of thing. So, again,  
14 on the medical staff, we would have the junior corpsman come twice a  
15 day for medication call to give out prescribed med's, but also for  
16 sick call. And, again, the medical officer himself, he would come by  
17 once a week or more as needed because the thing is we don't have a  
18 medical officer, as Commander Buie, totally dedicated to the brig.  
19 He has patients to see at OCS. You're well aware that Officer  
20 Candidate School--certain times throughout the year, they also have  
21 candidates that they need to see. But, at the end of the day, there  
22 were a few other providers that, if the one who was assigned to the  
23 brig couldn't make it, we would get some other provider to come in.

1 So.

2 Q. Okay. And so having the requirement of someone from the  
3 medical department ----

4 A. [Responded in the affirmative.]

5 Q. ---- every day, a chaplain highly desirable every day, and  
6 you every day, would you agree with me that, at least under SECNAV,  
7 the admin' segregation or the special quarters is deemed to be  
8 something that isn't long term necessarily. Would you agree with  
9 that?

10 A. I mean, yes. Prisoners get reviewed all the time. So  
11 there's never a thing where when somebody's in special quarters--in  
12 that custody, for example, MAXs or whatever, you know, no, there's no  
13 set, hey, they're in there indefinitely so let's make sure we have  
14 all these people coming on. That's just standard practice. So.

15 Q. In--in your experience as--aside from PFC Manning ----

16 A. [Responded in the affirmative.]

17 Q. ---- as the Brig OIC, what was the longest you've had  
18 somebody in prevention of injury?

19 A. I mean I've had some, you know, at other facilities---maybe  
20 not as long as him, to be honest with you. But we've had some close  
21 to that length of time. You know, it's kind of hard to say going  
22 back over the years. But as far as ----

23 Q. What about at Quantico when you were the Brig OIC?

1           A.    When I was there, to be honest, no, we did not have any--  
2 have anybody in POI for the exact length of time as him. We had ----

3           Q.    What was the longest you had someone in POI as the Brig OIC  
4 other than PFC Manning?

5           A.    Under my watch, I think, maybe a few days or no more than a  
6 couple of weeks or something like that. Again, sir, we had a bunch  
7 of different ones, so it's kind of hard to say. But I do know for  
8 sure that it hasn't been the 7 months or 9 months.

9           Q.    And do you recall Colonel Malone telling you that being on  
10 POI for PFC Manning was an additional stressor for him?

11          A.    I don't recall that. He--I remember us having a  
12 conversation, you know, and I recall just talking about different  
13 stressors--'cause for me--I was just saying--'cause I think he had  
14 made a comment about, I guess, if he would just seeing him--like  
15 let's say he was back at his command, it would be like routine, just  
16 come in, outpatient kind of thing. But I--I remember talking to him  
17 about, well, yeah, but that's different 'cause here now he has  
18 stressors. So even though we're doing our job and being  
19 professional, just the fact that, okay, he can maybe get to watch a  
20 certain channel or he can't get to, well, I'll just go ride my bike  
21 on the trails tomorrow; he can't do that. So to me confinement  
22 itself can be a stressor. And I think Doctor Malone may have  
23 mentioned, you know--it was something about--I don't recall if he

1 said that exactly, but I remember it was some conversation where he  
2 was trying to get at--when he was just--I guess trying to help us  
3 explain like how he thinks or--or certain things like that. So I  
4 don't recall if he said, you know, that could be a stressor. He may  
5 have, to be very honest. But my main concern though with those  
6 conversations was what harm is that causing? And I need to know  
7 that. And I need to know that ASAP.

8 Q. All right. And after PFC Manning left ----

9 A. [Responded in the affirmative.]

10 Q. ---- from Quantico, did you ever receive any sort of  
11 guidance from PSL on being able to put POI detainees in MDI as  
12 opposed to POI automatically meant MAX?

13 A. Yes. I don't recall if it was after he left--it could have  
14 been before. But Chief Warrant Officer Galaviz was asked a question--  
15 --can't remember who or how it came up--and basically his conversation  
16 was, hey, I know in the past--and he said even him himself as a CO,  
17 you know, people have all done it, but basically because of the  
18 restrictions that are in place, they usually tie--if somebody is,  
19 let's say, SR/POI they'll automatically make them a MAX. And that  
20 was because of the same--basically if you look at a MAX that's no POI  
21 or SR and somebody else that's POI, the restrictions are kind of the  
22 same. So he just came out with something that says, hey, look, let's  
23 do administrative segregation and don't tie the custody to POI or SR.



1 And, again, he just kind of made it a point, yeah, over the years  
2 we've all done it, but, again, somebody asked him about it; I'm not  
3 sure who, and he came out with that guidance. So--and in the grand  
4 scheme of things that you make--when you think about it, if somebody  
5 comes in for like, let's say, one count of 86 and they're just fine,  
6 you know, they wouldn't be in MAX anyway unless there's a lot of  
7 flags in the history or something like that. So, yes, he did some  
8 out with something saying that--that we should not automatically tie  
9 ER--I mean--I'm sorry, POI/SR to MAX.

10 Q. And prior to that coming out, am I correct that the  
11 standard practice was if you were in POI or SR you would--you would  
12 be in MAX? Was that the default?

13 A. Yes, sir--from my experience, yes.

14 Q. And so after this, you know--I guess guidance coming from  
15 Chief Galaviz ----

16 A. [Responded in the affirmative.]

17 Q. ---- did you ever have somebody that was POI or SR and was  
18 MDI?

19 A. Yes, sir.

20 Q. And can you tell me about that? You don't have to tell me  
21 ----

22 A. I'm not going to say the name ----

23 Q. ---- don't tell me the person's name, but just--yes.

1           A.   ---- but basically after that guidance came out--I can't  
2 remember if the person was already there or if it was somebody who  
3 actually came into the facility--got confined after that. But we  
4 discussed it. We implemented the changes; changed the handling  
5 letter. And I spoke to the staff and I said, hey, this is going to  
6 seem weird 'cause, again, when I'm not there the duty brig supervisor  
7 is in charge 24 hours--so I made it a point--Master Sergeant Papakie  
8 and I--even Gunny Blenis and the rest of the staff--I just kind of  
9 sat down and said, hey, this is how we're supposed to do business.  
10 From now on let's make sure that the--the duty brig supervisor's  
11 fully briefed and his staff is--just so they understand it's not a  
12 mistake, you know, on the handling letter. So there was one that I  
13 recall. It could have been more. But I do recall making that  
14 change. And as a matter of fact, when I was updating the SOP for my  
15 signature that was one of the things that I made sure I changed.

16           Q.   And how did that work out having somebody in--was it POI or  
17 SR the person was in? Do you recall?

18           A.   I don't recall, sir.

19           Q.   But how did that work out, I guess, regardless of which one  
20 it was, having them in that and MDI?

21           A.   I mean, sir, to be honest the res--like the five minute  
22 checks; that was still there, you know, that kind of thing. But it's  
23 just the custody was not MAX. So, therefore, when he would leave his

1 cell, yes--would he be under constant supervision as any other POI?  
2 Yes. But medium in the facility they're not required to be in  
3 restraint. So it was just one of those things where his custody was  
4 not tied to the POI or SR. So, therefore, like if he had to leave  
5 special quarters, yes, would he be escorted? Of course. But the  
6 facility, for example, would not go into lockdown all these other  
7 things that we would normally do for MAX custody, sir.

8 Q. And, Chief, did--because the individual's on MDI did that  
9 allow them to also eat with other detainees ----

10 A. No, sir.

11 Q. ---- or did they still eat in their own cell?

12 A. All the--all the handling was the same. I mean, we didn't  
13 say, okay, just because you're not a MAX we're going to now let you  
14 have silverware and all of that. No.

15 Q. No, I just meant like could they--could they eat in the  
16 cafeteria ----

17 A. No, sir.

18 Q. ---- eat with a spoon?

19 A. No, sir. If they were POI, again, we would bring them out  
20 obviously for attorney visits, you know, if the chaplain wanted to  
21 see 'em--we would bring them out to that room and things like that.  
22 But, again, they were not, again, mixed in with--with the other  
23 inmates who would, you know, be on the mess deck or something.

1 Q. And what about for rec call? Were they allowed ----  
2 A. They were still ----  
3 Q. ---- to rec ----  
4 A. ---- yep, they were still given rec call. Again, the  
5 restrictions that are in place do not include things like, okay,  
6 recreation call--well, we're not going to give you recreation call --  
7 --  
8 Q. No, I meant were they able ----  
9 A. ---- like that.  
10 Q. ---- to do rec call with everyone else or ----  
11 A. No, sir, again ----  
12 Q. ---- do they still do it by themselves?  
13 A. ---- you know, we try to--even though they're not MAXs--and  
14 that guy really wasn't at the brig very long--I do remember that.  
15 But, again, you know, even though he wasn't a MAX, he was still on  
16 POI or SR--I can't remember which one--so was in his cell for most of  
17 the day. He was still given all his--all his, you know, chow,  
18 hygiene time, and everything like that. But, you know, especially  
19 when they're still being evaluated by the MO, we--again, they--they  
20 weren't mixed with general populations though.  
21 Q. Just a last couple of questions ----  
22 WIT: I need to take a break. Is this going to be quick?  
23 CDC[MR. COOMBS]: Yeah--no--

1 WIT: Okay.

2 CDC[MR. COOMBS]: ---- yeah--I hope it is.

3 WIT: All right.

4 Q. The--the guidance; do you recall when that might have come  
5 out from Chief Galaviz?

6 A. To be very honest, sir, I don't remember. It could have  
7 came out--I think it might have came out before PFC Manning left the--  
8 -it's hard to say. I don't have a date, sir. But I--I do remember  
9 though him--as soon as he put the guidance out, making the change.  
10 But I think it was before he came out. I'm not for sure. I would  
11 obviously have to look at the email.

12 Q. All right. And--and then when did you begin relinquish  
13 Brig OIC?

14 A. When did what?

15 Q. When were you no longer the Brig OIC?

16 A. Well the brig itself closed for acceptance of prisoner 31  
17 December of last year. And so for all intents and purposes my job  
18 was done. After that--between 1 January and the end of February when  
19 I became the Deputy Command Inspector General, I was still--we were  
20 doing the shutdown, getting all the assets back to the battalion and  
21 gear back to PSO; that kind of thing. So for all intents and  
22 purposes my job as a brig OIC at Quantico stopped 31 December. We  
23 had no more prisoners. They were all transferred, sir.

1 Q. Okay, and even though you can't pinpoint when this order  
2 was it was definitely before 31 December?

3 A. Oh, oh, way before that, sir. 'Cause, again, I remember  
4 having that detainee--and the DBSs kind of said, wow, you know, for  
5 this--this is practice now you have to undo 'cause, again, it was  
6 kind of standard--but I do remember it came out--again, it could have  
7 even came out when PFC Manning was still there, you know. But,  
8 again, I don't--for me to tell you, okay, that email came out, you  
9 know, February the 19th or April the 30th, I can't say that.

10 CDC[MR. COOMBS]: And, ma'am, if--that's all the questions I  
11 have right now. Can we have a 10 minute comfort break?

12 MJ: Court is in recess until 11 o'clock.

13 **[The Article 39(a) recessed at 1051, 10 December 2012.]**

14 **[The Article 39(a) was called to order at 1303, 10 December 2012.]**

15 MJ: The Article 39(a) session is called to order. Let the  
16 record reflect all parties present when the court last recessed are  
17 again present in court. Captain von Elten, what is the status of the  
18 court reporting equipment?

19 ATC[CPT VON ELTEN]: The court reporting equipment is fully  
20 functional now, ma'am.

21 MJ: All right, has it captured everything that has transpired  
22 this morning?

23 ATC[CPT VON ELTEN]: Yes it has, ma'am.

1 MJ: All right. Anything else we need to address before we  
2 proceed?

3 CDC[MR. COOMBS]: No, ma'am.

4 ATC[CPT VON ELTEN]: No, ma'am.

5 MJ: All right. Let the record reflect the witness is on the  
6 witness stand. Captain von Elten, please proceed.

7 **REDIRECT EXAMINATION**

8 **Questions by the assistant trial counsel [CPT VON Elten]:**

9 Q. Chief Warrant Officer Barnes, what spell check equipment or  
10 spell checking capabilities does CORMIS have?

11 A. To my knowledge it doesn't have one, sir.

12 Q. And how often would staff draft documents in programs like  
13 Microsoft Word to enter them into CORMIS?

14 A. No, you just go into CORMIS. Once you log in, sir, and you  
15 click like on the prisoner--detainee that you're looking for--no, you  
16 just type the information in there, sir.

17 Q. What if you wanted to draft and entry and use spell check?

18 A. You--I mean you would have to do it in Word and then cut  
19 and paste it into CORMIS because CORMIS itself doesn't have it.

20 ATC[CPT VON ELTEN]: I'm handing the witness Appellate Exhibit  
21 441D [handing the document to the witness].

22 MJ: 441D you said?

23 ATC[CPT VON ELTEN]: Yes, ma'am.

1 [Pause]

2 ATC[CPT VON ELTEN]: I'm also handing the witness Enclosure 24 to  
3 Appellate Exhibit 259 [handing the document to the witness].

4 Q. Would you please turn to Page 25 of Enclosure 24, Chief  
5 Warrant Officer Barnes?

6 A. [Looking through the document] Turn to Page 25 you said?

7 Q. Yes.

8 A. Okay. [Looking through the document] Okay, sir.

9 Q. Would you review that for a moment?

10 A. Okay [doing as directed].

11 MJ: Is it Page 25?

12 ATC[CPT VON ELTEN]: Yes, ma'am.

13 [Pause while the witness reviewed the document as directed.]

14 Q. Chief Warrant Officer Barnes, how does Enclosure--or Page  
15 25 of Enclosure 24 to Appellate Exhibit 259 compare to Appellate  
16 Exhibit 441D?

17 A. It's not reading verbatim, sir, it's not the same thing.

18 Q. How would you describe them in comparison?

19 A. [Looking at the documents] Well in CORMIS, sir, they kind  
20 of have these columns because you have to pick what it is; either a  
21 counselor entry or C&A board results. The date was put up here first  
22 on Page 25. It wasn't the case on the--on the Word document.

23 Q. How would you compare the content of the Word document to



1 the content of the CORMIS entry?

2 A. It's very different. In the CORMIS entry it listed up  
3 front, you know, the recommendation. [Reading from the document] And  
4 that said named detainee requested to appear before the board and was  
5 granted his request.

6 Q. How would you compare the description of PFC Manning's  
7 statement before the classification and assignment board between the  
8 two documents?

9 A. [Looking at the document] Just give me a quick second, sir.

10 [Pause]

11 A. I'm looking here during--on the Word document, sir, it  
12 says----

13 ATC[CPT VON ELTEN]: The witness identified Exhibit 441D--  
14 Appellate Exhibit.

15 A. Yes, sir. [Looking at the document] One second, sir, let  
16 me just go look through here.

17 [Pause while the witness read through the document.]

18 MJ: Captain von Elten, what are you trying to get at?

19 Q. Just trying to ask you what is it--what does it say about  
20 PFC--what does Enclosure 24 say about what PFC Manning said before  
21 the classification and assignment board on 21 January--or 20 January.

22 A. [Looking at the document] It said--it's a couple of  
23 different things that he said in here, sir. I mean, they're--

1 they're--I mean, he was----

2 Q. What does it say about what he said with regards to his  
3 statement about always acting[sic], never planning[sic]?

4 A. Oh, I didn't get down that far, sir. One second, please?

5 ATC[CPT VON ELTEN]: Your Honor, may I have a moment?

6 MJ: Yes.

7 [Pause]

8 A. He was asked about the statement he made on his intake form  
9 about, you know, about the suicide piece as far as have you ever  
10 considered it? And he--they asked him--well, you wrote always  
11 planning, never acting. And they asked him about it. And he said  
12 that could have been false--or that may have been false.

13 Q. What does it say generally in Appellate Exhibit 441D?

14 MJ: Is your point going to be that those two say the same  
15 thing?

16 ATC[CPT VON ELTEN]: Yes, ma'am--or somewhat.

17 MJ: Can I--do I need to do that through this witness? I can  
18 read.

19 ATC[CPT VON ELTEN]: I--it--it was in context of the previous  
20 question, ma'am.

21 MJ: All right. Go ahead.

22 ATC[CPT VON ELTEN]: I can move on, ma'am. I'm retrieving 441D  
23 and Enclosure 24 [retrieving the documents from the witness]. I'm

1 handing the witness Enclosure 32 to Appellate Exhibit 259 [handing  
2 the document to the witness].

3 Q. Chief Warrant Officer Barnes, defense counsel reviewed the  
4 entry for--on Page 12. Could you please turn to it?

5 A. [Looking through the document] Okay, sir.

6 Q. What is your assessment about PFC Manning's state of being  
7 at that time?

8 A. [Reading from the document] On this one the note I wrote  
9 was concur with the board. SND seems to be handling his stressors in  
10 a--in a better fashion, sir.

11 Q. And what is the date?

12 A. 25 February, sir.

13 Q. And what happened approximately a week later on 2 March  
14 2011?

15 A. Kind of got a little frustrated down there in special  
16 quarters. He was talking to Master Sergeant Papakie. But, again, on  
17 that day he had a couple other things going on as far as receiving  
18 new additional charges, and he also received Colonel Choike's  
19 response, which did not grant him relief on his Article 138  
20 complaint, sir.

21 Q. What changes did your opinion of the custody and status for  
22 PFC Manning have during that time?

23 A. I'm sorry, sir, can you say that again?

1 Q. What changes did your determination for the custody and  
2 status for PFC Manning have during that time?

3 A. On the 25th or are you talking about a week later?

4 Q. Between the 25th and 2 March?

5 A. Could you rephrase the question, sir?

6 Q. How would describe your assessment of PFC Manning on 25  
7 February?

8 A. I mean in talking to the board and just, you know, of  
9 course, after I probably had spoken to Doctor Malone or to whoever  
10 the psych' was that day, you know, just--I mean, to me--hadn't been  
11 any like major breakdowns or anything like that. So I just said it  
12 seems as though, you know, he's handling his stressors in a better  
13 fashion. And that could have been around the time when they decided  
14 to either wean him or take him off his med's. I don't recall  
15 exactly, sir.

16 Q. And a week later would you have said the same thing?

17 A. I mean, on that particular day probably not because--I  
18 mean, he--he was not a type of detainee like every day we had a  
19 problem with him or had outbursts and stuff like that every day. So  
20 when I was briefed on the conversation--it was kind of how it went--I  
21 said, okay, well, obvious--the--with the things that happened earlier  
22 in that day, you know, maybe that--that added to the stress or maybe  
23 made him a little bit more frustrated, sir.

1 Q. So how did your assessment of PFC Manning change from 25  
2 February, when after PFC Manning made the comments on 2 March 2011?

3 A. I mean, sir, like I said, the comments caused me concern.  
4 It's not something that I feel comfortable with, of course. So--and  
5 that's, you know, what let me to decide to take the actions that I  
6 did that day. I mean--like I stated before, I did talk to Master  
7 Sergeant Papakie and Gunny Blenis at that time. And in that room,  
8 between the three of us, that's close to 50 years of military  
9 experience. So, again, not that I need their permission, but out of  
10 respect for them as individuals and their rank, it's like, hey--you  
11 know, of course, I asked some questions to them--mostly to Master  
12 Sergeant. And then when I made my decision, I asked them--I said, is  
13 this--do you think in your opinion is it unreasonable or anything  
14 like that? So my assessment kind of was like, you know, hey, I  
15 don't know if--you know, if it was the two things that happened to  
16 him--happened earlier that day that he just became a little bit more  
17 frustrated--something else, I don't know.

18 ATC[CPT VON ELTEN]: Retrieving Enclosure 32 [retrieving the  
19 document from the witness].

20 Q. What circumstances is it app--in what circumstances is it  
21 appropriate to place restraints on a detainee during recreation call--  
22 -or Sunshine Call?

23 A. I mean they're allowed to do it. I mean if they make the

1 call to remove restraints, I mean, that's on them. But I guess for  
2 me--you know, a lot of things is pretty much at the CO's discretion.

3 Q. Okay. And when did you first meet PFC Manning?

4 A. Well when I came to the facility, sir--obviously I was  
5 doing my walk arounds beforehand, but when I officially took over  
6 that's when I talked to each detainee or prisoner, sir.

7 Q. How many chits did PFC Manning file with you?

8 A. I didn't get any chit, sir.

9 ATC[CPT VON ELTEN]: I'm handing the witness 441K [handing the  
10 document to the witness].

11 Q. At the end of the email what do you note that you offered  
12 PFC Manning?

13 A. [Looking at the document] Let me take a quick look, sir?

14 [Pause]

15 A. I put in the email that [reading from the document] I spoke  
16 to Manning today to advise him that I kept him in POI status and that  
17 he can submit a DD Form 510 to me if he's not happy with the custody  
18 classification and assignment. He was asked if he wanted to talk to  
19 me in private about it and he stated, no. He took the news well and  
20 stated that he understands. Thanks, sir.

21 Q. And what is the date of the email?

22 A. 28 January, sir, 2011.

23 Q. And when did PFC Manning take the opportunity to talk to

1 you personally and privately?

2 A. When I approached him--to be honest, sir, on a few  
3 occasions. But he's never asked or put a chit in the CO's box asking  
4 me to talk in private, sir.

5 ATC[CPT VON ELTEN]: I'm retrieving 441K [retrieving the document  
6 from the witness.]

7 Q. How often do you put--when you put a detainee on suicide  
8 risk, how often do you put them on one-to-one watch?

9 A. Well if all--outside, sir, somebody's in front of that  
10 cell.

11 Q. Most of the time? Some of the time?

12 A. No. If they're SR, sir, that Marine sits in front of that  
13 cell 24 hours a day, sir.

14 MJ: This is on suicide risk?

15 WIT: Suicide risk, ma'am, SR.

16 Q. And after you ordered PFC Manning's underwear removed, how  
17 often was he placed under one-to-one observation?

18 A. No, it was still the five minute checks for POI, sir.

19 Q. How was--how were the conditions of PFC Manning's  
20 confinement as a maximum custody detainee different from other  
21 maximum detainees?

22 A. It wasn't different, sir. And that's one of the points I  
23 always try to stress. I mean he was not the only MAX detainee we had

1 at the time. He was not the only MAX detainee POI or SR that we've  
2 had at any given time. So his conditions, sir, were the same. All  
3 the handling letters were the same, sir. His was just different  
4 because, again, realizing how long he was in that custody and status-  
5 -when Chief Warrant Officer Averhart gave him a little extra  
6 correspondence time, I went along with it. I had no issues with  
7 that. And when he asked for letter writing material to have during  
8 the day, I gave him that was well. So those things were different on  
9 his compared to the MAX's. But as a standard rule as far as no  
10 calisthenics in the cell, you know, that kind of thing--toilet paper  
11 will be given to you on request; all those things were exactly the  
12 same, sir.

13 Q. And how did those conditions compare to conditions  
14 implemented at confinement facilities across the Marine Corps for  
15 maximum custody detainees?

16 A. Sir, to be honest, it's no different. I mean--again,  
17 because there's no formal corrections school, and the SECNAV, as you  
18 see, has a lot of leeway. To be very honest, some practices may vary  
19 a little bit, but in my time in corrections the standard for MAXs,  
20 POI, SR, as I described, sir, that's what I've seen.

21 Q. All right. You just mentioned extending his note taking  
22 time, I believe?

23 A. Chief Warrant Officer Averhart did that before I got there



1 and I kept it in place.

2 Q. When did you give PFC Manning the ability to have note  
3 taking equipment in his cell?

4 A. Well, I don't recall exactly when that was, sir, but he may  
5 have said something to Gunny Blenis. He--Gunny Blenis came and  
6 talked to me. I mean he says he thinks he should have it. And I  
7 didn't have an issue with that. So he was--not just him, there was  
8 actually another detainee as well that had asked. And we said yes to  
9 both, sir.

10 Q. And who approved that decision?

11 A. It was me, sir.

12 Q. And with whom did you seek approval above you?

13 A. Nobody, sir.

14 Q. What confinement decisions did you seek approval from a  
15 higher officer on?

16 A. To be honest with you, sir, there is nothing that I called  
17 Colonel Oltman and said, hey, sir, can I have permission to do this,  
18 or I want to do this. I'll wait for you to come back and say  
19 something. There wasn't a situation like that, sir. Again, things  
20 like that, I didn't feel it was, you know, unreasonable to give it to  
21 him. So--but to be honest, there wasn't a time where I had to call  
22 for approval to make a change.

23 ATC[CPT VON ELTEN]: Thank you.

1 MJ: Redirect--recross?

2 CDC[MR. COOMBS]: No, Your Honor.

3 MJ: All right, I have several questions for you.

4 **EXAMINATION BY THE COURT-MARTIAL**

5 **Questions by the military judge:**

6 Q. The--has it been your experience in other facilities where  
7 clothes are taken from people on POI status?

8 A. To be honest, ma'am, I can't--I can't recall. But I just  
9 know that in general if there is a need for it that it--that by the  
10 SECNAV rule I could do that. But I don't recall, honestly, ma'am,  
11 where that's the case. 'Cause even though I worked on security where  
12 I was a dorm supervisor--before--that was very young in my career.  
13 And most of my time after that was the administrative chief for the  
14 most part. So to be very honest, ma'am, I wouldn't say it was not  
15 done. I--it's kind of hard for me to say, ma'am.

16 Q. As I look at the SECNAV Instruction, the portion that you  
17 cite as authority to take away the clothes is the part that deals  
18 with--that talks about suicide risk. Is there anything else in the  
19 SECNAV Instruction that talks about removal of clothes to your  
20 knowledge?

21 A. That same wording, ma'am, is in another part of the SECNAV  
22 when they talk about disciplinary segregation. But they--I'm sorry,  
23 about special quarters, ma'am. But to be very honest, it--once I

1 reviewed it, I realized that it did not address POI. And initially,  
2 I thought that it did. So the same content initially, ma'am, is just  
3 covered in a different section. But, again, it was under the  
4 paragraph where they were talking about suicide, ma'am--suicide risk.

5 Q. And I think I'm a little confused on that. Is your  
6 testimony that in addition to the paragraph on the suicide risk that  
7 authorizes taking of clothes there's another paragraph in the SECNAV  
8 Instruction that authorizes it in other circumstances?

9 A. No, ma'am, not in other circumstances. That's why I--not  
10 in other circumstances, ma'am. It was mentioned again, however, it  
11 was still along the lines of addressing a suicide, ma'am.

12 Q. So what is your testimony today regarding your authority--  
13 any brig commander's authority under the SECNAV Instructions for  
14 taking a detainee's clothes when they're not on suicide risk?

15 A. To be very honest, ma'am, there's nothing else that says if  
16 they're in POI status clothing may be removed as deemed necessary.  
17 POI, prevention of injury, is not mentioned very much in the SECNAV,  
18 ma'am. So it is correct that in the SECNAV--although I knew, yes,  
19 clothing can be taken deemed necessary--although that day after  
20 talking to the staff and getting briefed, I did not--by his comments  
21 did not feel though he was suicidal or he made a gesture or threat in  
22 suicide by his comment, but just given the history, ma'am, and  
23 knowing that at nighttime more of an opportunity will exist, I made

1 that decision. But, again, ma'am, there's nothing in the SECNAV that  
2 says outside of SR that in POI or some other circumstance that you  
3 may remove the underwear, ma'am.

4 Q. In your experience in other correctional facilities is rem-  
5 -had--have you seen--have clothes and underwear been removed from a  
6 pretrial detainee who's not in a suicide risk status?

7 A. I'm not--I can't recall, ma'am, to be honest with you.  
8 Again, when I was on the security section in a dorm such as the  
9 special quarters Marines that were in there, that was very young in  
10 my career as a PFC and lance corporal. And pretty much from the time  
11 I picked up E4 and E5, I rose up then--admin' chief, sex offender  
12 coordinator, vic coordinator, DNA coordinator, so a lot of my  
13 experience, honestly, ma'am, has not been--like for most of my career  
14 on security itself where you're--you know, in the weeds with that  
15 kind of thing, ma'am.

16 Q. Did you follow--when you first arrived did you follow Chief  
17 Averhart's brig policy--I think you had one that was fairly thick?

18 A. He had one, ma'am, but one of the first things I did was I  
19 told the staff at least for the first 30 days until I start getting  
20 into the swing of things, I said, yes, that is the Brig SOP. But I  
21 started making changes to that. I made liaison with the Staff Judge  
22 Advocate, and I was giving him like one--one to two or three chapters  
23 at a time, ma'am.

1 MJ: Trial counsel, can you pull the enclosure that was the brig  
2 policy and give it to the witness so I can talk to her about it?

3 ATC[CPT VON ELTEN]: Yes, ma'am.

4 MJ: Thank you.

5 [The assistant trial counsel did as directed.]

6 ATC[CPT VON ELTEN]: I'm handing the witness Enclosure 48 to  
7 Appellate Exhibit 259 [handing the document to the witness.]

8 Q. Is that the policy--the one that Chief Averhart when you  
9 arrived at Quantico?

10 A. [Looking at the document] Yes, ma'am.

11 Q. Look at Page 18.

12 [The witness did as directed.]

13 Q. Under 2007, it talks about exercise, recreation, and  
14 training. And it has Number 1 and Number 2, which is on the next  
15 page.

16 A. Yes, ma'am.

17 Q. I believe you testified about this earlier; what was your  
18 understanding of the amount of exercise and regulation--I'm sorry,  
19 exercise recreational training that maximum security detainees were  
20 allowed?

21 A. Can I just have a quick second?

22 Q. Certainly. Certainly.

23 A. Thank you, ma'am.

1 [Pause will the witness read through the document.]

2 A. Meaning as far as my understanding, ma'am, they would get  
3 rec call for an hour.

4 Q. And that would be maximum security detainees as well?

5 A. Yes, ma'am, I didn't have any restrictions or anything on  
6 that.

7 Q. So did that--that piece remain the same in your policy as  
8 well or something similar to it?

9 A. It probably did, ma'am. Again, just going through it--I  
10 was just kind of looking out for big things. And as I stated before,  
11 when we got told about custody being tied to PR, that's something--  
12 definitely something I put in there. But as far as the exercise, I  
13 pretty much could have just said an hour because even though it's at  
14 our discretion, I prefer an hour.

15 Q. That's what--really the crux of my question; is exercise  
16 call--Sunshine Call per the SECNAV, is that completely up to your  
17 discretion, or is there certain amounts of minimum that you're  
18 supposed to give?

19 A. I don't think it gives times, ma'am. I think it just kind  
20 of says, you know--of course it's based on behavior because it's kind  
21 of seen as an incentive, you know, to get recreation call; that kind  
22 of thing. And one of the reasons why it may not be addressed time  
23 wise is because the way the SECNAV is written--it's not really

1 written for a PFC like mine 'cause--a PCF--I'm sorry, ma'am--like  
2 mine. So they'll talk about an exercise program which was mandatory.  
3 And I remember having to conduct exercises first before they got  
4 recreation call. So, to be honest, ma'am, I don't recall that it's a  
5 set time like you can only give 'em 20 minutes or whatever. I think  
6 a lot of it--based on behavior, you know, how the prisoner's doing,  
7 ma'am.

8 Q. In the policy there, the other part that I'm a little  
9 confused on is--if you look at Page 101.

10 [The witness did as directed.]

11 A. Okay, ma'am.

12 Q. It has the POI on E there; [reading from the document] it  
13 says those prisoners who have given an indication that they intend or  
14 are contemplating harming themselves or others will be assigned  
15 maximum custody. Is that the part that you changed?

16 A. That's--yes, ma'am. And that--after the guidance came out  
17 from Chief Warrant Officer Galaviz we did that. And traditionally  
18 because of all the restrictions that are synonymous between somebody  
19 that's on POI and just on MAX custody inmate, period, who is not POI  
20 it, to be honest, has been common practice in facilities to do that.  
21 So as I was going through the rewrite--when we had--the change came  
22 out that came down from Chief Warrant Officer Galaviz, I made sure  
23 that I changed that. 'Cause even the SJA, Lieutenant Colonel Greer,

1 as we're--when I submitted those chapters, I would say, hey, sir,  
2 these are the chapters I got. And I would reiterate the guidance--I  
3 said, sir--and I also have the new guidance from Headquarters Marine  
4 Corps in there as well. But, yes, that was in my change, ma'am.

5 Q. So before you made the change was--I mean were there  
6 actual--the C&A board and you, did you make two separate  
7 determination on POI and MAX custody, or did you just--did you say we  
8 decided POI so, therefore, MAX kind of always went along with that?

9 A. To be honest, ma'am, we--we looked at them separately  
10 because with the custody the factor such as the seriousness of the  
11 alleged offense, one of which involves--or could have been involved  
12 at least in the matter of national security, we looked at the length  
13 of potential--length of sentence, that he had few family ties. So  
14 you know, low toleration of frustration. So those are the things we  
15 looked at, ma'am, because the custody thing, again, as they pointed  
16 out, depending on the charge, if they come in for one count or UA,  
17 Article 86, so because now they're SR they should not be made MAX,  
18 but to be very honest, ma'am, in my mind I didn't say, hey, let's  
19 just lump everything together.

20 Q. Did someone--taking the POI issues aside, would someone  
21 arriving at Quantico with the identical charges of PFC Manning, would  
22 they always be a maximum custody?

23 A. They would be in maximum custody, ma'am, if the charges



1 were the--were the same. Because for one, anything, again, ma'am,  
2 that involved national security of some--of any degree, we try to  
3 make sure that we protect that detainee or that prisoner.

4 Q. Well is maximum security status--maybe I'm confused here. I  
5 thought protective custody was protecting someone. Is maximum  
6 security----

7 A. Oh, the PO--the----

8 Q. ----designed to protect someone?

9 A Well to the--remember, ma'am, because they're not--the MAX  
10 custody, ma'am, they're not allowed to mingle in with the other  
11 inmates. I think maybe I confused about bring up the term PC or  
12 protective custody. And I apologize for that, ma'am. But that's  
13 another status. But the MAX custody itself for prisoners, whether  
14 it's very violent crimes, Article 118, and things like that, they are  
15 separated and put on higher restrictions based on some of those  
16 factors that I just listed, ma'am. Yes, to protect them also from  
17 other detainees in addition to protecting detainees from them, you  
18 know, based on the charges, ma'am--on the alleged charges.

19 Q. And I guess here's my confusion--and maybe you can help me  
20 clear it up a little bit. Protective custody is a status that  
21 someone would go into if they needed protection from other detainees.  
22 Is that right?

23 A. Right, ma'am. In the case that I cited--for example; if

1 you have prisoners testifying against each other, yes, we would put  
2 them in protective custody. If a prisoner came to--came to us and  
3 said, hey, this person has threatened me or this detainee put this  
4 note on my feed tray threatening me or something like that, then,  
5 yes, they'll be in protective custody because, one, they requested--  
6 of if we saw a need for it, you know, based on, again, court  
7 proceedings where maybe that person is testifying against somebody  
8 else.

9 Q. Could a person in protective custody be in MDI status?

10 A. Yes, ma'am.

11 Q. So going back then to the hypothetical that I gave you  
12 initial, would PFC--someone with PFC Manning's charges comes to  
13 Quantico----

14 A. Yes, ma'am.

15 Q. ----no other--the family relations are fine, no issues on  
16 tolerating frustration, the only one you have on that block, if he  
17 comes with those charges, would he be an automatic maximum custody  
18 inmate or detainee, excuse me?

19 A. Pretty much, ma'am, because of the one that deals with the  
20 national security issues--and the thing about it is, again, even  
21 though we may--you know, you look at the nature--the serious nature  
22 of the alleged charges, that's definitely one of the--the big  
23 factors. And all we have to go on is the confinement order or--you

1 know, if the unit, for example, did maybe the IRO hearing--whatever  
2 came out of that. So with serious alleged charges like that, ma'am,  
3 then more than likely, yeah.

4 Q. Understanding the initial custody level would more than  
5 likely be MAX as you've testified----

6 A. Yes, ma'am.

7 Q. ----over time would it automatically--or would it  
8 automatically stay maximum for the entire period of the pretrial  
9 detention because of the charges themselves with nothing else?

10 A. No, ma'am. And the--and the thing is, again--that's one of  
11 the reasons why we stay engaged with the command to tell them, hey,  
12 when you guys update things, we need it. 'Cause it could be  
13 something like a new charge sheet. And I know personally in my  
14 experience I've had to get on units because I would hear it through  
15 the grapevine somehow and then wouldn't know--and then I would say,  
16 hey, we need that so we can put this person back on the C&A board.  
17 So, no, ma'am, I wouldn't say it's automatic just because of that one  
18 thing. And then we also realize that keeping somebody in MAX, you  
19 know, that is taxing on the staff, and it's not something that should  
20 be done arbitrarily, ma'am.

21 Q. Okay.

22 [Pause]

23 Q. Before you took over at Quantico, had you had experience

1 with C&A boards in other correctional facilities?

2 A. Yes, ma'am.

3 Q. Were there--were there counselors--was the detainee's  
4 counselor ever a voting member of those boards that you're aware of?

5 A. No, ma'am. Most of the time in the facilities that I  
6 worked at, they were Level 1; they were a little bit larger. So most  
7 of the time, you know, the counselors would be there to kind of--in a  
8 way, I guess, feed the case--hey, this is what I want for my  
9 detainee. So in other briggs that I have worked out, with the  
10 staffing issues, usually the counsel--when there weren't--I'm sorry,  
11 the counselors usually would be there for feedback or if they had  
12 questions. But--and that's what I've seen in other facilities,  
13 ma'am.

14 Q. When you arrived at Quantico and you saw the way that the  
15 C&A board was structured at Quantico, did that concern you in any  
16 way?

17 A. To be honest, ma'am, no. I mean we were talking to  
18 Headquarters Marine Corps as far as staffing. And, you know, a lot  
19 of times we were told, well, hey, the TO was changed; this is all you  
20 guys have. So for me when I looked at do we have a programs chief?  
21 Yes. Do we have a security chief? Yes. Do we have an  
22 administrative chief? Yes. And those are the basic members that  
23 comprise the board. So me personally, I didn't see an issue with how

1 the boards were run. And, again, when I took over I asked about the  
2 last functional adequacy inspection the Headquarters Marine Corps  
3 did. And I reviewed that. And there were no issues. As a matter of  
4 fact, programs got a noteworthy. And programs is the section that  
5 the counselors and the C&A board falls under, ma'am.

6 Q. Going back to the 2d of March, you testified earlier that  
7 PFC Manning received new charges on that day and he also got Colonel  
8 Choike's Article 138 response.

9 A. Yes, ma'am.

10 Q. How much notice did you have ahead of that day that that  
11 was going to be happening?

12 A. Lieutenant Colonel Greer emailed me--I think it could have  
13 been earlier--that--that morning, I think, about the new charges  
14 coming down. And he said he did--himself did not know exactly what  
15 time they would be at the brig--the best that I can recall, ma'am.  
16 But I'm pretty sure it was either earlier that day, but it wasn't a  
17 lot of notice like, you know, 30 days or a month out. I remember it  
18 was pretty close, ma'am.

19 Q. Were you concerned about having a mental health  
20 professional on hand that day?

21 A. That was discussed, ma'am. Because, again, when Lieutenant  
22 Colonel Greer said that--and he said, you know, this is pretty heavy.  
23 Then I said, well, we'll definitely have to monitor him and just to

1 see. 'Cause anybody in that predicament, even though he's not been  
2 found guilty, that's--to me is a lot to deal with. So I just said,  
3 you know, let's make sure that we watch him closely. I'm not saying  
4 to, you know, stand in front of his cell the whole time, but that we  
5 need to OCS know, hey, we need the MO over here--that we'll be trying  
6 to get them over here quickly.

7 Q. Did you have notice that Colonel Choike's 138 complaint was  
8 going to come that day, too?

9 A. Yes, I believe he had mentioned that. 'Cause he asked to  
10 make sure that he got the sheet that PFC Manning had to sign saying  
11 that he got it--that they wanted that back. So I'm pretty sure he  
12 told me that it was signed by Colonel Choike or ready to go--  
13 something like that.

14 Q. Do you remember if the conversation between PFC Manning and  
15 Master Sergeant Papakie where the underwear comment was made, do you  
16 remember if that occurred before or after he--PFC Manning got his new  
17 charges and the Article 138 complaint?

18 A. I recall, ma'am--to be honest with you, when they came and  
19 briefed me it was very close to the end of the day. And I believe he  
20 had gotten that stuff earlier. And that's kind of like some of the  
21 things, you know, that I was a little concerned with.

22 [Pause]

23 Q. The suicide blankets; is that unique to Quantico or are

1 they the typical suicide blankets that anyone would get in any Naval  
2 Marine Corps correctional facility?

3 A. It's typical in other facilities, ma'am. It's--there's  
4 just the--the characteristics of it that are usually synonymous.  
5 And, of course, it may be a different color or something, but as far  
6 as it being very thick and not being able to be ripped and that kind  
7 of thing, it's pretty standard, ma'am.

8 Q. How about the mattress?

9 A. I don't know about the mattress to be honest with you.  
10 'Cause I know they got that one from Rappahannock because PSO did  
11 provide any 'cause the regular mattresses that the other ones have is  
12 very soft, very pliable, and could be pulled apart.  
13 [Pause]

14 Q. What about the suicide smock; was that something that had--  
15 I believe you said Headquarters Marine Corps bought that?

16 A. Yes, ma'am.

17 Q. Did they buy just one or did they buy more than one?

18 A. I believe--I know it was definitely more than two because  
19 we actually had another detainee who wore it--wore the smock. So we  
20 had at least two or three, ma'am. I can't remember exactly how many.  
21 But we definitely had more than two because I remember there was  
22 Manning and another detainee at the time wearing it, ma'am.

23 Q. Have you seen those smocks before at other facilities?

1           A.    No, ma'am.  Usually they were the same two blankets from  
2   what I saw.  'Cause there were times when I would have to go to  
3   special quarters and--they would let me know--the way to let me know  
4   when the person is up and covered in a blanket, ma'am.  But prior to  
5   that I hadn't seen smocks in the facilities, ma'am.

6           Q.    Other than PFC Manning, what was the longest time during  
7   your tenure that a pretrial detainee stayed at Quantico--  
8   approximately?

9           A.    Could you repeat the question, please, ma'am?

10          Q.    Other than PFC Manning----

11          A.    [Responded in the affirmative.]

12          Q.    ----who was there since July of 2010----

13          A.    [Responded in the affirmative.]

14          Q.    ----what was the longest period of time a pretrial detainee  
15   stayed at Quantico during your tenure?

16          A.    Ma'am, several months to be honest with you.  Because I  
17   remember myself just calling over to legal, hey, you know, what's the  
18   holdup?  And, you know, as far as getting them to court.  But, yes, I  
19   do remember we had a couple that were there for several months.  You  
20   know, five to seven in that timeframe.

21          Q.    Five to seven detainees----

22          A.    No, no, I'm sorry----

23          Q.    ----or two detainees there for five to seven months?



1           A.   No, I'm just saying time wise, ma'am. There were other  
2 detainees that were in the facilities, you know, for several months.

3           Q.   What does several mean to you? I mean----

4           A.   I mean I would say, you know, like somewhere between five  
5 to seven, ma'am.

6           Q.   Did Quantico have some kind of an MOU of what kind of a  
7 facility it was going to be?

8           A.   Before I took over, ma'am, it was Level 1. And then  
9 Headquarters Marine Corps decided to downgrade it to pretrial  
10 confinement, which just means all detainees or post-trial up to 30  
11 days. So that was done and approved before I took over, ma'am.

12          Q.   Was there any kind of limitation on pretrial for a duration  
13 of how long a pretrial person could stay--a pretrial detainee could  
14 stay at Quantico?

15          A.   No, ma'am. And that's one of the issues, you know, that I  
16 had. And, you know, of course, I would call over to legal to say,  
17 hey, what's the holdup? You know, sometimes I would talk to the  
18 detainees themselves; hey, look, you've been here for a long time.  
19 Are you in--I used to ask them, hey, are you talking to your  
20 attorney? What--do you know what the holdup is? I mean, obviously,  
21 I don't control, you know, the courts, but when I see somebody  
22 passing 120 days and it's like, well, okay, what is the problem here?  
23 You know, it's just one of those things, ma'am, where there was

1 nothing that says we can only hold them, if they're in pretrial  
2 status, for let's say for the 130 days and no more. I--I wasn't  
3 aware of anything like that, ma'am. Their concern, to be very  
4 honest, from PSL standpoint is getting the ones who came back  
5 adjudged, hurrying up to get them transferred to the larger  
6 facilities.

7 Q. I believe you testified earlier that--or we had testimony  
8 that it's not common for detainees to appear before the C&A board.  
9 Is that--was that your testimony?

10 A. Yes, ma'am. I said I've seen where some detainees appear.  
11 But to say on a regular basis like every time--'cause we run the C&A  
12 board every day, but to say that----

13 Q. You run it every day?

14 A. Yes, ma'am, because there are other things that we consider  
15 like changing detainees' work assignments, for example, things like  
16 that. So--or if somebody comes back adjudged and they were a  
17 detainee today--they come back adjudged tonight, then when the C&A  
18 board meets the next day it'll be to change them, okay, well, now  
19 they're a prisoner. And we'll give them a work assignment, you know,  
20 one that may be different. So the C&A board is only required to meet  
21 weekly, ma'am, but we--we just meet every day 'cause sometimes things  
22 come up.

23 Q. Is it also uncommon for detainees in maximum custody to

1 appear before the C&A board?

2 A. Honestly, ma'am, I don't see them a lot. Because what  
3 happens is when--the counselor--of course they meet with their  
4 clients once a week or more as they need it. And they kind of talk  
5 to 'em and say, hey, this is what I'm recommending. And they usually  
6 talk to their inmates ahead of time so--so they would know. But most  
7 times they'll say--they might ask them--and I know I've done it in my  
8 time, you know, you can appear or is there anything you want me to  
9 say other than what we've discussed? But to be honest with you, it's  
10 not really common that you see MAXs at the board, ma'am.

11 Q. How about people on suicide risk?

12 A. Not really, ma'am.

13 Q. POI?

14 A. Not really because a lot of it, to be honest with you,  
15 ma'am, again, the counselor talks to them a lot. And then with--we  
16 let them know, hey, look, we're--we communicate with the medical  
17 providers--that kind of thing, so they kind of know it's a  
18 collaborative thing. And--but in my experience I really haven't seen  
19 MAXs or POIs or SRs--you know, like always say, hey, I want to appear  
20 in front of the board.

21 Q. On the 18th of January of 2011, were you--are you--you were  
22 asked to review, I think, a transcript of what----

23 A. Yes, ma'am.

1 Q. ----transpired. Have you ever seen the video that was  
2 taken of that incident?

3 A. Just a very short clip, ma'am. And for whatever reason--I  
4 don't know if the CD either didn't work well or whatever, but I did  
5 not see the whole thing or--or, you know, was able to hear the whole  
6 thing, ma'am.

7 Q. On the POI checks did I understand your testimony to be  
8 that it was every five minutes?

9 A. Yes, ma'am.

10 Q. What did a check--what--what is a check? What does a check  
11 require?

12 A. Okay, basically, ma'am, the guard will walk past, you know,  
13 he'll take a look every five minutes. It wasn't, hey, PFC Manning,  
14 stand up or what do you need or are you okay; that kind of thing.  
15 'Cause, of course, with anybody, you know, not just him, that  
16 probably would annoy you a little bit. So for the most part, ma'am,  
17 they'll walk past or take a look or say, hey, you good? Maybe  
18 they'll do it on this check. And then a few other ones they'll look  
19 again. If they haven't asked in the last few checks, they'll ask  
20 them, are you good? Or--but then, again, sometimes it could be--  
21 it'll be more times than that. Like maybe, for example, when he's  
22 done eating, he'll say, any problems with the chow or something like  
23 that. So--but as far as just the five minute checks it'll--you know,

1 just them looking over, hey, how are you--everything good? And just  
2 annotate on the DD Form 509, ma'am.

3 Q. So do I understand your testimony that every five minute  
4 check doesn't get an "are you okay"?

5 A. Right--or forcing him to stand up.

6 Q. You testified earlier that in the cells you try to create  
7 distance.

8 A. That I try to create distance?

9 Q. In--in the spacing of cells. Maybe you said--that's  
10 something I wrote down when you were testifying. Did you--well was  
11 it your practice then if you had--if--if the facility wasn't full,  
12 what was your practice in assigning detainees to cells? Did you try  
13 to put them all together so they could talk to each other? Were they  
14 separated farther apart so they had more of privacy?

15 A. No, ma'am, because in the cells they can't see each other;  
16 they can just talk. So I didn't have like a set policy that says,  
17 okay, nobody will be next to a POI, or nobody will be next to an SR.  
18 I mean--yeah, I don't recall saying--as far as creating the space.  
19 As far as inmates being allowed to talk to each other; that's not an  
20 issue. And people who were housed next to him before--not for long  
21 consecutive periods like the entire times he was there, but there  
22 were times, ma'am, when people were housed next to him. But I don't  
23 have issues with inmates in cells next to each other. But we did

1 separate the disciplinary ones, ma'am. We had those--excuse me--in a  
2 different part of special quarters.

3 Q. In the C&A boards that were documented under your tenure, I  
4 noticed on the 4th of March after the boards there was a continuation  
5 sheet for each of the boards where there wasn't before. Was that  
6 something that you instituted?

7 A. No, ma'am. I didn't tell them to do that. But that was  
8 just something--I just remember kind of ask--and they just said, hey,  
9 ma'am, some of the notes don't always fit in the box on the worksheet  
10 itself--the C&A worksheet. So they'd just put stuff on there. But,  
11 again, with the C&A boards, they would bring me the worksheet and his  
12 book. So I was still able to, you know, to go through and look at  
13 things. So that wasn't something that I said, hey, from now on let's  
14 start doing this. You know, again, that block on the C&A worksheet  
15 itself is kind of small. And they just used that just to put extra  
16 information in there, ma'am.

17 [Pause]

18 Q. So did I understand your testimony correctly; with PFC  
19 Manning, when he changed his visitation----

20 A. [Responded in the affirmative.]

21 Q. ----what hap--how did you first hear about that?

22 A. The mail clerk had said something. And I think--I can't  
23 remember if Master Sergeant Papakie might have come in and also said

1 something to me. But Corporal Sanford did send an email letting me  
2 know the people he took off, ma'am.

3 Q. Did PFC Manning have to go on the visitation list and just  
4 cross out people's names or did he have to draft a new visitation  
5 order?

6 A. No, ma'am. The original ones he had--when I looked at it,  
7 he crossed out the name and then initialed. Because what it was--he  
8 removed them from visitation, but he still elected to have mail  
9 because on that sheet it has both. So I remember him--I remember  
10 seeing things lined out with his initials on there. But the DD Form  
11 510; that's something separate. He did have to say, you know, to the  
12 mail clerk, hey, I would like to change mail and visitation. But on  
13 the sheet itself, because it's quite a few sheets, ma'am, from what I  
14 had seen he had lined out and initialed. Now maybe there was one  
15 sheet--I don't know if it was--it just wasn't legible and they may  
16 have asked him, hey, just fill out this one. But for the most part,  
17 because it was multiple sheets, I saw things that were crossed out  
18 and his initials.

19 Q. When he filled out the DD 510, did he have to list every  
20 visitor that he was going to remove?

21 A. For one, ma'am, I don't know if he did or not. I can't  
22 remember the chit. But something like that, we would want that on  
23 there so there's no mistakes on, you know, any misinterpretation

1 because if something happens down the road--well, I didn't say to  
2 take that off--then we would be able to have the chit. So I'm sure  
3 more than likely he may have asked, hey, do you want to remove or  
4 add, if that was the case.

5 Q. Just to make sure that I'm understanding; after the--the  
6 change to the visitation, there's--there's a visitation form that  
7 existed----

8 A. Yes.

9 Q. ----and you said it was several pages?

10 A. Yes, ma'am.

11 Q. PFC Manning goes and makes changes. Now is there still  
12 only one form, or is there an old form and a new form?

13 A. Ma'am, they'll give him--they'll show them the original  
14 form that was filled out and then they'll make the changes. And  
15 that's why they'll ask him to initial. But, again, I believe it may  
16 have been a form or so where--either from scratching it out or  
17 something--it might not have been legible and they may have asked  
18 him--but from what I recall, the originals--I saw quite a few pages  
19 where he just lined out the item and initialed. So to my knowledge  
20 he wasn't given a whole stack of, here--here's some new mail and  
21 visitation forms. Fill out each on all over again.

22 [Pause]

23 Q. And I just want to make sure I understood your testimony;



1 did you--did the--the 2d of--or the 3d of March----

2 A. [Responded in the affirmative.]

3 Q. ----where PFC Manning stood naked in his cell for morning  
4 count. Did you testify--were there any entries anywhere about that  
5 incident on any of the----

6 A. On the back of his hard card, ma'am, there was an entry put  
7 on the back of his hard card. And Master Sergeant Papakie spoke to  
8 him about it.

9 Q. Did he make the entry?

10 A. More than likely he could have, ma'am. I mean it's not  
11 uncommon if somebody else outside of the special quarter's supervisor  
12 made a correction that they themselves would ask for the hard card  
13 and write the note. That's not uncommon.

14 Q. Do you know when--it was the morning of the 3d of March----

15 A. [Responded in the affirmative.]

16 Q. ----that he stood naked. Do you know when Master Sergeant  
17 Papakie talked to him about that? Was it the same day? Was it the  
18 next day? Was it the day after that?

19 A. I think it may have been the next day, ma'am. I think--I  
20 think--I'm not sure if it was that day itself, ma'am. But I know he  
21 did talk to him because he let me know, you know, that he spoke to  
22 him about it because, again, initially Staff Sergeant Terry said  
23 something. So Master Sergeant Papakie--I don't know if it was later

1 that day or the next day, but I know it was fairly soon after that he  
2 did say something to him and put a note on his hard card.

3 [Pause]

4 MJ: All right. I think that's all I have. Any follow-up based  
5 on that?

6 ATC[CPT VON ELTEN]: No, ma'am.

7 CDC[MR. COOMBS]: I do, ma'am. But could we have a brief 10  
8 minute comfort break?

9 MJ: Certainly. I think--if I'm reading that clock there; is it  
10 5 minutes after 1400?

11 CDC[MR. COOMBS]: That's correct, ma'am.

12 MJ: Okay, why don't we go ahead and recess then until 15  
13 minutes after 1400. Court is in recess.

14 **[The Article 39(a) session recessed at 1406, 10 December 2012.]**

15 **[The Article 39(a) session was called to order at 1417, 10 December**  
16 **2012.]**

17 MJ: This Article 39(a) session is called to order. Let the  
18 record reflect all parties present when the court last recessed are  
19 again present in court. The witness is on the witness stand. Mr.  
20 Coombs?

21 **RECROSS-EXAMINATION**

22 **Questions by the civilian defense counsel:**

23 Q. I wanted to make sure I understood some of your responses

1 to Colonel Lind's questions. With regards to the charges, you were  
2 asked if--if a detainee came in with the exact charges of PFC Manning  
3 but had good family relationships, didn't have a low tolerance for  
4 stress, you indicated that that person would be in MAX custody based  
5 upon the charges?

6 A. Maybe on the initial confinement. But, again, the C&A  
7 board would come in that day after that and review it. And if  
8 there's nothing else that we see--nothing from let's say the IRO  
9 hearing or something like that, yes, that person would not  
10 automatically be kept in the MAX because of the--the one charge.  
11 And--but everything else as favorable.

12 Q. Okay, so--and then that's where I got confused because I  
13 thought what you said was that based upon the national security  
14 implications of the charges. So if they had all the charges that PFC  
15 Manning has, would that person be in MAX based on the charges alone,  
16 or not?

17 A. Well, again, sir, we get the confinement order. That's  
18 what we're going on. And when you look at that, again--and it  
19 depends on what other things came in. Sometimes we'll get things  
20 from the IRO hearing, or--it depends. So, again, I'm just saying  
21 maybe initially that person can be in MAX, but there is nothing where  
22 that person would automatically be--will stay in MAX. Because,  
23 again, as I told you in the case of PFC Manning, that wasn't the only

1 criteria that was looked at though.

2 Q. Sure. But you said that, you know, sometimes charges are  
3 reduced or whatnot, and then that would result in somebody being  
4 taken off of MAX because their charges are no longer a serious  
5 threat?

6 A. Yes, they will--that's correct--will get reviewed. So,  
7 again, if it's something where they go from a violent 128 or  
8 something like that--or attempted murder or something like that--and  
9 granted I have not seen anything where it just went from that to  
10 like, okay, for one count of 92. I haven't seen that. But, again,  
11 if--for example, let's say a rape charge that was reduced to maybe  
12 something like inappropriate touching or something like that--  
13 something that went from full blown rape to that, then in a case like  
14 that then, yes. But I'm not talking about a case like this--do you  
15 understand what I'm saying? Again, if the charges are significantly  
16 reduced and it's nowhere near as serious, that's one of the main  
17 criteria to look at, yes, to get reduced.

18 Q. What about a situation where the charges are not ever  
19 reduced? So the person--the violent--you know, a murderer or the  
20 rape were the very, very serious offenses; they stay the same  
21 throughout----

22 A. Not necessarily----

23 Q. ----what about that?

1           A.   ----not necessarily, sir. Again, if there's nothing else--  
2 when you look at those higher classification factors, if the charge  
3 is pretty much the only thing and, again--obviously I can't tell the  
4 Commandant what charges to put up there.

5           Q.   Right.

6           A.   But that's, again, one of the things that's looked at. But  
7 if the charges never change, but that person has been in confinement,  
8 not been an issue, there're no issues or concerns with other things,  
9 then, no, there's no set law you're just going to stay in MAX,  
10 period, because of that.

11          Q.   And PFC Manning's condition or situation, he stayed in MAX,  
12 was that because of the charges and other factors, or was that  
13 because at that point POI meant you were in MAX?

14          A.   Well to be honest, it was, again, the factors and the fact  
15 that, okay, we didn't seen any change let's say in the bonds with his  
16 family, the greater communication that we talked about before, that  
17 was--that's still something else we looked at. So even though I  
18 realized at the time, you know, those are the pres--it just so  
19 happens that with PFC Manning that he also came in with very serious  
20 alleged charges. You know what I mean?

21          Q.   [Responded in the affirmative.]

22          A.   I mean--I see what you're saying. You make a very good  
23 point. But, again, it just so happens in his case it wasn't just,

1 okay, he came in with an 86 and for whatever reason, you know, he was  
2 put on POI or SR. So it just so happens that in his case, sir, that  
3 the seriousness of the alleged charges, the potential length of  
4 sentence, all those factors that I discussed before as well as looked  
5 at.

6 Q. Okay, so--so now I just want to do two hypotheticals and  
7 you tell me what the response would be. Prior to CW5 Galaviz putting  
8 out kind of that memo saying, hey, look, POI doesn't automatically  
9 mean MAX. You know, it could be MDI. If, prior to that memo, if PFC  
10 Manning was on POI did that mean he would be on MAX?

11 A. Honestly by practices, more than likely, sir, to be honest  
12 if that was the case.

13 Q. Okay. And in this situation, because PFC Manning was  
14 always considered on POI, let's take away the seriousness of the  
15 charges and the other issues you might have considered for MAX----

16 A. [Responded in the affirmative.]

17 Q. ----because he was in POI, he would be in MAX by default?

18 A. Again, sir, I answered that. I said prior to that memo.  
19 'Cause, again, when you see that as standard practice, until you're  
20 corrected and told this is how you need to do business from here on  
21 out, of course I would have been in compliance.

22 Q. Okay. So now let's take away the POI aspect. Let's say  
23 there was no concern about prevention of injury or anything like

1 that----

2 A. [Responded in the affirmative.]

3 Q. ----so that was not a concern for you all and you had his  
4 good conduct. My understanding for the MAX based upon looking at the  
5 C&A boards it was; the seriousness of the offenses, the potential  
6 length of sentence, low tolerance for stress----

7 A. Right.

8 Q. ----and the poor family relationships?

9 A. Right.

10 Q. Was there anything else that you were looking at as far as  
11 the factor just for MAX, if you take away the POI aspect of it?

12 A. I mean--well, again, sir, the--the--the behavior we were  
13 seeing that I discussed previously----

14 Q. Let's say none of that--

15 A. ----the decreased communication----

16 Q. ----I'm sorry to interrupt you there----

17 A. Okay.

18 Q. ----let's say none of that issue of behavior or anything  
19 like--you have no concerns about him harming himself--absolutely no  
20 issues there. So if you can for a moment kind of divide that--put  
21 that to the side and say no issues of him harming himself or being,  
22 you know, a risk of suicide or self-injury----

23 A. [Responded in the affirmative.]

1 Q. ----so just looking at the MAX now.

2 A. [Responded in the affirmative.]

3 Q. So you've got the seriousness of the offenses, the poor  
4 home relationship, the low tolerance for stress, and the potential  
5 length of sentence.

6 A. Okay.

7 Q. Was there anything else that you were factoring just for  
8 the MAX and not for any sort of prevention of injury?

9 A. I mean, again, sir, I would--what would weigh heavily on me  
10 is, and you covered it, the nature of the alleged charges. One thing  
11 I would consider though is if he's allowed in general population,  
12 what could happen? Because--in case you did not know there were  
13 inmate's families who were visiting talking about the case.  
14 Obviously we can't tell them, hey, don't talk about it or we cannot  
15 confirm or deny that he's there. We don't answer questions, but that  
16 would be something that would very much concern me. Because unlike  
17 what the media says or what other people think, we have a total  
18 responsibility of all inmates to safeguard them from harm, hence the  
19 reason for the flak jacket and Kevlar. I've never seen a MAX  
20 transported in a Kevlar and a flak jacket to be very honest with you.  
21 So.

22 Q. And that would be protective custody?

23 A. No--



1 Q. If like you had----

2 A. ----no----

3 Q. ----nothing else though----

4 A. ----no, sir, that's not----

5 Q. ----wouldn't you----

6 A. ----protective custody; that's something different. What

7 I'm telling you is, aside from those factors that you listed, which--

8 --

9 Q. Sure.

10 A. ----are in the SECNAV, and it clearly says those factors

11 are not all inclusive----

12 Q. Right.

13 A. ----my responsibility to keep him safe is important. And

14 that's something I would consider. Because at the end of the day, I

15 don't care what the detainee's in my facility for, I'm going to make

16 sure that they don't hurt themselves or that nobody else hurts them.

17 That--that is a big deal. So, again, some people--I don't have a

18 problem with people reporting--reporting things up the chain or

19 whatever--whether they call it whistleblower or whatever the case it,

20 I don't have a problem with that. Maybe some people do. I don't

21 know. My job is based on the feedback we were getting and other

22 things that were going on. My job is to protect him. Some people

23 are very patriotic. And even though, you know, some people may say,

1 well, why did you have to say something? They--some people don't  
2 look at things objectively and acknowledge, okay, is reporting a  
3 crime the right thing to do regardless? Everybody--some peoples'  
4 views are different on that. So because I knew that other inmates  
5 were aware that he was here--I mean the guards overheard them  
6 talking. But, again, they cannot get involved and tell them, hey,  
7 don't say that or whatever. I don't want him to be put at risk; he's  
8 not even found guilty yet. So that's one of the things I considered.  
9 Would he be safe from the other inmates? To be very honest with you,  
10 if he wasn't MAX--let's say he was just out and about in general  
11 population, he'll probably be on a work assignment. So these are  
12 things I have to consider.

13 Q. Okay, and I think--and correct me if I'm wrong, but if  
14 there are no other reasons to keep him in MAX and you had just this  
15 concern for his safety, you would put him in protective custody as  
16 opposed to MAX wouldn't you?

17 A. Well, again, that's certainly something we could have  
18 looked at. Again, over time--because, again, it is not common to  
19 have somebody in pretrial that long. So can I sit here and say over  
20 time if--if there was always good communication, he was in good  
21 spirits and things like that--would I sit here and say I would never  
22 take him off MAX? No. But, again, sir, when you look at the things  
23 that I'm responsible for--'cause, again, even with PC--even if he was

1 not in MAX, he would still not be around other detainees or  
2 prisoners. And, again, that is for his safety. Again, I don't care  
3 why he's in the brig or anybody else. We have a responsibility to  
4 keep them safe from harm. Again, having him wear that Kevlar and  
5 flak jacket is a prime example; that's not standard. You don't see  
6 other MAXs being transported that way. Again, I took the extra step.  
7 When I was talking to John Lease about these movements, these  
8 upcoming trips and all of that, I'm asking him, hey, look, how are  
9 you all holding up out there? Do ya'll have everything you need?  
10 Are ya'll changing routes, blah, blah, blah. There was an issue of  
11 what they want him to wear outside the facility. These are all  
12 things, sir, that I concerned myself with. Is it going to fall on me  
13 if something happens to him out there? No it's not. I'm not. I'm  
14 not transporting him. I'm not outside the facility with him. But,  
15 again, as the--as the brig OIC, I can't have tunnel vision. Just  
16 like I have prisoners to worry about, staff issues to worry about,  
17 battalion functions and command issues to worry about--again, the  
18 biggest part of that job as any brig OIC is to safeguard those  
19 prisoners, period. So, again, going above and--above and beyond?  
20 Does it take a lot for me to pick up the phone or exchange emails?  
21 Hey, what is the deal? Let us know about changes. No it don't take  
22 a lot. But that--that makes me feel a little bit better if they're  
23 changing the routes that they take even though they're going to the

1 SCIF of wherever they're going, they're changing routes; that kind of  
2 thing. Okay, so I take what I do very seriously. And, again, there  
3 are no personal ill-will or personal feelings for anybody. I've had  
4 a murderer on my caseload as a counselor. I've had child molesters.  
5 So for me, you know, you don't look at this is what they did. I look  
6 at a service member who is in pretrial confinement, who's not been  
7 found guilty yet, that I have to make sure gets to court in one  
8 piece. That's--that's what it comes down to. As a matter of fact,  
9 the date of his release and transfer to Leavenworth got leaked--it  
10 was all over the place--I was furious. I sent an email--and I'm sure  
11 you have it--to Colonel Oltman saying, hey, look, Mr. Greg Stroebel  
12 came, everything went good. On his prerelease he had no issues. He  
13 got his money, his ID card, nothing to report. He had no concerns  
14 for me because I spoke to him in front of Mr. Stroebel. But I also  
15 put in that email that I was pissed--excuse me--that the date of his  
16 transfer was leaked. I said not only posed a problem or put Manning  
17 at risk, I said, it put my guards at risk. Because understand when  
18 somebody's calling your job--and I don't--and I hope this doesn't  
19 ever happen to you--somebody's calling your job saying and I know  
20 where 3247 Elrod Avenue is. We know what the tree house look like.  
21 We know exactly where you're at. I got guards at nighttime when it's  
22 dark their job--called rovers to walk around, check that perimeter,  
23 check that fence line, okay? That's one of the reasons why we don't

1 violate peoples' rights. We don't discuss things. So I friggin'  
2 take it personal when people feel that I have some personal something  
3 against Manning or any other detainee. So--and in that same email I  
4 told him, I said, listen, I hope in the future we never have  
5 something like this. To put that detainee at risk, to put the guys  
6 at risk, I did not like it. But at the end of the day what am I  
7 going to do when people way above me--however it go leaked, it got  
8 leaked. You know--and I'm sure you're familiar with Quantico, you  
9 could come in on that train into Q-Town. Guess what? You're on that  
10 base. That is--Quantico is a unique base and it's not 100 percent  
11 secure. One of the protests I believe happened that way. People are  
12 entitled to do what they want. So my point to you is, from day one--  
13 from that Saturday when you walked up to me in the brig parking lot  
14 and introduced yourself, you could--I'm sure you could tell by my  
15 demeanor and the things we talked about--I told you then, I don't  
16 have a problem making changes. I said, I just got here. I said--I  
17 told you that I ordered a review of everybody. And you said, you  
18 know, that's good. I think I caught you off-guard. And you said,  
19 yeah, that's--that's fair. And you expressed to me, hey, over time I  
20 hope that can change. And I said I don't have a problem with that.  
21 So, for one, for me to be at that facility on a Saturday, what does  
22 that tell you? I'm a wife. I'm a mother. I take my religion and my  
23 family extremely serious. So when I give up time on the weekends,

1 you know, what that to inspect what you expect. That's something the  
2 Marine Corps says. But, again, if I go in on a Saturday, hey, let me  
3 kind of see what happens. They know my hours obviously are Monday  
4 through Friday, 0730 - 1600, whatever. I changed up my times. I  
5 would come in early to watch chow. I would stay late. Come in  
6 different times at night. Come in on the weekends. Again, it's not  
7 distrust for the staff, but--again, I feel it's important for them to  
8 see that she's not really on a regular schedule. So, you know, they  
9 understand I don't just--in my office and leave. Okay? And I  
10 apologize if I'm getting heated. But, again, at the end of the day,  
11 for me I have somebody to answer to. That's the way I see it. So  
12 there's nothing personal against any detainee that I've ever held in  
13 any facility.

14 Q. Now--so, Chief, in addition, I guess, to the concern for  
15 his safety, were there any other factors for the maximum--so we've  
16 got the four plus now a concern for his safety?

17 A. And--and that was--I mean for the most part that was it,  
18 sir.

19 Q. Okay. Now the--you indicated in your previous experience  
20 that you never really had a counselor as a voting member on a C&A  
21 board, is that correct?

22 A. Well at the time I did not have it to where the program  
23 chief also happened to be that person's counselor. But, again, in

1 that facility it was Level 1, the staffing was totally different, so  
2 typically--I was the counselor the first time I was stationed in  
3 Okinawa. And we--it just didn't happen. Now at times if--for  
4 example, that senior member is out and that--the counselor--the next  
5 senior guy happens to be a counselor for somebody and has to stay in  
6 their place, then, yes, you would see something like that. So,  
7 again, for the most part, depending on the staff, no, the counselor  
8 would not vote. But, again, when people are on leave or TAD or  
9 deployed and somebody has to step up, you could see that. But it  
10 just comes down to the same thing; being objective--hey, this-----  
11 I'm putting up this detainee or this prisoner for X, Y and Z, and  
12 that's that. So you don't come in with that, you know, preface of,  
13 well, hey, I'm the senior member of the board, this is what I say  
14 that needs to happen--nothing like that. Because, again, on several  
15 sheets--it so happens that no on PFC Manning, there were votes were  
16 some said yes, some said no.

17 Q. So it could have been the standard practice to say that if  
18 you are the counselor you could not be on the board? That was  
19 possible, correct?

20 A. I wouldn't say that it was standard practice or they said  
21 that.

22 Q. No, no, no, ma'am. What I'm saying is you could say--if  
23 you wanted to--like your brig SOP----

1 A. Okay.

2 Q. ----SOP, you made changes, right?

3 A. Yes.

4 Q. If you wanted to you could say within--in the SOP the  
5 counselor can--for a detainee cannot be a voting member of the board?  
6 That was a possible change you could make?

7 A. Yes, if I had a concern. Yes, I could have said that.  
8 But, again, from the level--knowing the type of Marines and staff  
9 NCOs that I had, knowing that there was not an issue in the past,  
10 there wasn't a need for that. Again, Chief Warrant Officer Galaviz  
11 and his team conducted a functional adequacy inspection in 2010.  
12 They said everything was good to go. No issues or practices. As a  
13 matter of fact, the program section got a noteworthy on that  
14 inspection. And then, again, when he came down to review PFC  
15 Manning's book and everything else for the 138 with Chief Warrant  
16 Officer Averhart, again, nothing was passed after that review to say,  
17 well, hey, wait a minute, you all are not doing stuff the right way.

18 Q. Okay. And I want to now ask about the guards checking on  
19 PFC Manning. You indicated that every five minutes they'd have to do  
20 some sort of check, is the correct?

21 A. Yes, they would go over to his cell, look at him.  
22 Sometimes they'll say, hey, are you okay? You need anything--or--and  
23 that's it.



1 Q. And whenever they said are you good, everything okay, or do  
2 you need anything, the requirement under the brig rules would be that  
3 PFC Manning would respond?

4 A. Well, every detainee or prisoner is required to respond if  
5 a staff member asks them a question.

6 Q. Right. And----

7 A. So I don't----

8 Q. ----and you indicated that you didn't think every five  
9 minutes they asked that question, is that correct?

10 A. From my--from my knowledge, no. And, again, it's--you  
11 know, if they check on him--for example, right now, hey, Manning, are  
12 you good? Do you need anything? No, I'm good. And if they go back  
13 the next five minutes later or when they check on him--they see that  
14 he's doing good or he's reading, they might just, again, annotate it  
15 on the 509. So for me--obviously I'm not done there 24 hours a day  
16 watching them do these checks. I just know the times when I went  
17 down there it just so happens to where--even if they were about to do  
18 a check, they call special quarters to attention, I'll go in there,  
19 tell them carry on. I would talk to him. And I would make a note  
20 myself 'cause I sign the 509s. But, again, I don't--from what I'm--  
21 from what I was told it's like--'cause I know an issue came up with  
22 harassment. And I said, who's harassing him? What is that--what are  
23 they talking about? And I guess it was construed because he's--as

1 for the most part they would talk to him. But I'm sure they were--  
2 you know, a few times where they take a look at him, he's reading or  
3 writing something, and they probably didn't say anything.

4 Q. And then--I think as you pointed out, you know, at any  
5 typical hour you weren't down there. So you don't know how many  
6 times--I guess if they were doing it every five minutes then, you  
7 know, how--how many times they would actually ask him are you okay in  
8 a given hour as opposed to just look at him?

9 A. Absolutely it's not--I can't say for sure. Like within  
10 from 1400 to 1500, you know, the person asked him, you know, 15  
11 times.

12 Q. Right.

13 A. Or whatever.

14 Q. Okay. Now I want to ask you a couple of questions about  
15 the visitation list. You indicated that--I want to make sure I  
16 understand your testimony correctly--that he didn't have to fill out  
17 a new visitors list or he did have to fill out a new visitor's list?

18 A. What I said was, sir, there was a bunch--several pages,  
19 okay. I recall from what I saw in his book that some of that stuff  
20 was lined out--he had his name on it. I was not aware that he was  
21 given a brand new set of, you know--of the sheets--the mail and  
22 visitation sheets to fill out all over--all over again from scratch.  
23 I mean from what I recall--I do recall flipping through some of that,

1 and I saw where he would line something out and initial it. Because,  
2 again, on that, it reflects visitation and mail; so they elect which  
3 one that is--it's for. So, again, I don't recall him having to fill  
4 out the whole thing all over again.

5 CDC[MR. COOMBS]: Okay, and I'm showing you Appellate Exhibit  
6 441N [handing the document to the witness].

7 Q. This is where you said he did fill out a 510, but was  
8 annoyed he had to update the list----

9 A. Right.

10 Q. ----oh well. And I was wondering what was PFC Manning--  
11 from your knowledge what was he annoyed that he fill out?

12 A. To go back and update the list. Maybe when he submitted  
13 the DD Form 510, maybe he just thought, okay, well, Corporal Sanford  
14 will make that change. And that's not how it works. So from what I  
15 was told he seemed a little bit annoyed. And, again, I can kind of  
16 understand that he may have felt, well, okay, I'm filling out a 510,  
17 why do I now have to go down for each person? But, again, you know,  
18 in the line of work we're in we always try to document things so we  
19 can show, you know what, he's the one who made these changes. So if  
20 there's ever a question later on it's not, well, the mail clerk did  
21 it. That's not what I told him to do. Or that's not--well, you  
22 know, who I told him to take off.

23 CDC[MR. COOMBS]: And I want to show you also from Enclosure

1 22 of Appellate Exhibit 259, this is the weekly reports----

2 WIT: Okay.

3 CDC[MR. COOMBS]: ----that you did. This is Page 99 [handing  
4 the document to the witness].

5 Q. If you'll look up in Gunny Sergeant Blenis' counselor's  
6 notes, he talks about the reason why PFC Manning removed people from  
7 the list. Do you see where he says he removed people who either  
8 didn't visit him or people where his relationship deteriorated with  
9 them?

10 A. [Looking at the document] One second, please?

11 Q. Sure.

12 MJ: It's enclosure what?

13 CDC[MR. COOMBS]: It's Enclosure 22, ma'am, of Appellate  
14 Exhibit 259, Page 99.

15 A. Yes, sir.

16 Q. So you were aware that the reason he was removing these  
17 people were they didn't visit him or in the case of two individuals  
18 the relationship with them deteriorated somewhat?

19 A. Right.

20 Q. Now on 3 March the incident where PFC Manning is standing  
21 naked for the morning formation, you said you believed there was a  
22 notation on the hard card for that?

23 A. I didn't say that morning. I said I know Master Sergeant

1 Papakie spoke to him and made a note--I'm pretty sure he made a note  
2 on the hard card. I don't know--I didn't say that morning----

3 Q. Okay.

4 A. ----'cause that morning count goes at 05--0510, excuse me,  
5 so normally Master Sergeant Papakie didn't come in that early. So  
6 that's not something he would have done that morning. Again, I  
7 remember it being put on the hard card. It could have been later  
8 that day on the 3d or maybe even the 4th.

9 Q. And do you know why there--there wasn't an incident report  
10 filled out for that?

11 A. I can tell you there wasn't one.

12 Q. Do you--I guess--maybe I'll rephrase it. Do you recall an  
13 incident report being filled out for that?

14 A. Honestly, sir, I don't recall. Most of the other things  
15 they did, so it's likely that one was done. I mean, other things  
16 that took place in the cell or other things that he--he did--like for  
17 example, when, you know, he was kind of--trying to initiate the  
18 movement and just take his hand out for them to put restraints on or  
19 move while they're putting--things like that----

20 Q. [Responded in the affirmative.]

21 A. ----I know they document. But, again, more than likely  
22 they probably did one. But, again, I know it was annotated on that  
23 hard card. To go back and remember if an incident report was done

1 for that particular incident, I don't recall.

2 CDC[MR. COOMBS]: I'm retrieving from the witness Enclosure 22  
3 and Appellate Exhibit 441N [retrieving the documents from the  
4 witness]. Thank you.

5 WIT: Yes, sir.

6 ATC[CPT VON ELTEN]: Nothing, ma'am.

7 MJ: Based on defense counsel's questions, I have one more.

8 **EXAMINATION BY THE COURT-MARTIAL**

9 **Questions by the military judge:**

10 Q. The 3 March incident where PFC Manning stood naked for  
11 morning count, before reading about it in the newspaper, what level  
12 of severity of infraction, if you will, was something like that?

13 A. I mean, to be honest, ma'am, it wasn't one of those things,  
14 hey, write him up on a disciplinary report; not for severe as that.  
15 Again, it--it--I know it caught all of us by surprise because inmates  
16 are taught, hey, you will keep your shirt on, you know, that kind of  
17 thing. So they know that you don't--you're not allowed to walk  
18 around like bare chested or anything like that except, you know,  
19 during hygiene call and shower call. So it wasn't one of those major  
20 infractions to where a disciplinary report would be written for it.  
21 But he would at least be counseled on it. And if it continued then,  
22 yes, it would go, you know, to a disciplinary report after he'd been  
23 counseled a few times on it, ma'am. But, again, it wasn't one of

1 those definitely write him up on a DR right now and that kind of  
2 thing--not for that even though it was inappropriate. For whatever  
3 reason he thought to do that, I don't know, ma'am. But, again, it  
4 just wasn't something where I felt or anybody else thought like, hey,  
5 this is a disciplinary report absolutely. It's one of them things--  
6 it is inappropriate. This is a new change. I understand in the past  
7 you've been able to keep your underwear, but just so we're very  
8 clear, you make sure that this doesn't happen again. That's the  
9 extent of the--of where it went, ma'am, as far as severity. But  
10 nothing to where he would get a disciplinary report where after  
11 having a discipline--discipline and adjustment board I would be able  
12 to take away privileges from him. But we didn't think it was that  
13 serious that it rated a disciplinary report. But he did have to get  
14 spoken to about it.

15 Q. I'm not looking so much on the disciplinary side. I'm  
16 looking at the incident report side. Would a situation like that  
17 normally be--well, I don't know how normally that situation exists,  
18 but would something like that normally trigger an incident report?

19 A. And normally, ma'am, yes, because there's things that he  
20 did before where they did incident reports that were not like that.  
21 'Cause, again, that's not something that routinely occurs. So, yes,  
22 an incident report should have been written. I just don't recall,  
23 honestly, ma'am, you know, if I--if--I can't sit here and say, yeah,

## INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

**USE OF FORM** - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

**COPIES** - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

**ARRANGEMENT** - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.

2. Judge advocate's review pursuant to Article 64(a), if any.

3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.

4. Briefs of counsel submitted after trial, if any (Article 38(c)).

5. DD Form 494, "Court-Martial Data Sheet."

6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.

7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

a. Errata sheet, if any.

b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.

c. Record of proceedings in court, including Article 39(a) sessions, if any.

d. Authentication sheet, followed by certificate of correction, if any.

e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.

f. Exhibits admitted in evidence.

g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.

h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.